

110TH CONGRESS  
2D SESSION

# H. R. 7239

To reduce gasoline prices, to lessen the dependence of the United States on foreign oil, to strengthen the economy of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2008

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture, Ways and Means, Science and Technology, Oversight and Government Reform, Transportation and Infrastructure, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reduce gasoline prices, to lessen the dependence of the United States on foreign oil, to strengthen the economy of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “American Energy, American Innovation Act of 2008”.

6       (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SHORT-TERM RELIEF FOR AMERICAN ENERGY  
CONSUMERS

Subtitle A—Consumer Energy Supply

- Sec. 101. Definitions.
- Sec. 102. Sale and replacement of oil from the strategic petroleum reserve.

Subtitle B—Commodity Markets Transparency and Accountability

- Sec. 111. Definition of energy commodity.
- Sec. 112. Speculative limits and transparency of off-shore trading.
- Sec. 113. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 114. Detailed reporting from index traders and swap dealers.
- Sec. 115. Transparency and recordkeeping authorities.
- Sec. 116. Trading limits to prevent excessive speculation.
- Sec. 117. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 118. CFTC administration.
- Sec. 119. Review of prior actions.
- Sec. 120. Review of over-the-counter markets.
- Sec. 121. Studies; reports.
- Sec. 122. Over-the-counter authority.
- Sec. 123. Expedited process.

TITLE II—NATIONAL COMMISSION ON ENERGY INDEPENDENCE

- Sec. 201. Establishment of Commission.
- Sec. 202. Purpose.
- Sec. 203. Composition of Commission.
- Sec. 204. Functions of Commission.
- Sec. 205. Powers of Commission.
- Sec. 206. Reports.
- Sec. 207. Staff of Commission.
- Sec. 208. Compensation and travel expenses.
- Sec. 209. Meetings.
- Sec. 210. Authorization of appropriations.

TITLE III—ESTABLISH A NATIONAL RENEWABLE ELECTRICITY  
STANDARD

- Sec. 301. National renewable electricity standard.

TITLE IV—APOLLO PROJECT FOR CONVERSION OF MOTOR  
VEHICLES TO ALTERNATIVE FUELS

- Sec. 401. Sense of Senate on conversion of motor vehicles to alternative fuels and energy independence.
- Sec. 402. Consumer tax credits for advanced vehicles.
- Sec. 403. Research and development program for alternative fuel vehicle technologies.
- Sec. 404. Federal fleet requirements.

TITLE V—ENHANCED CONSERVATION AND EFFICIENCY

Subtitle A—Enhancing Efficiency of Conventional Vehicles

## PART I—FUEL ECONOMY STANDARDS

- Sec. 501. Increase corporate fuel economy standards.
- Sec. 502. More realistic determination of fuel efficiency standards.
- Sec. 503. Fuel efficiency standards revisions.
- Sec. 504. Automobile safety.

## PART II—OTHER PROVISIONS

- Sec. 511. Lightweight materials research and development.
- Sec. 512. Federal Government gasoline consumption.
- Sec. 513. Credit for fuel-efficient motor vehicles.
- Sec. 514. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 515. Idling reduction tax credit.
- Sec. 516. Determination of certification standards by Secretary of Energy for certifying idling reduction devices.
- Sec. 517. Extension and modification of alternative motor vehicle credit.

## Subtitle B—Alternative Fuels and Biofuels

## PART I—GENERAL PROVISIONS

- Sec. 521. Bioenergy research and development.
- Sec. 522. Alternative fueled automobile production requirement.
- Sec. 523. Definition of renewable biomass.
- Sec. 524. Loan guarantees for renewable energy pipelines.

## PART II—TAX PROVISIONS

- Sec. 530. Reference.
- Sec. 531. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 532. Credit for producers of fossil free alcohol.
- Sec. 533. Extension and modification of credit for biodiesel used as fuel.
- Sec. 534. Extension and modification of alternative fuel credit.
- Sec. 535. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 536. Extension and modification of election to expense certain refineries.
- Sec. 537. Hydrogen installation, infrastructure, and fuel costs.
- Sec. 538. Alternative fuel vehicle refueling property credit.
- Sec. 539. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.

## Subtitle C—Other Provisions

## PART I—GENERAL PROVISIONS

- Sec. 541. Energy efficiency and conservation block grants.
- Sec. 542. Weatherization assistance program for low-income persons.
- Sec. 543. Renewable energy workforce.

## PART II—TAX PROVISIONS

- Sec. 550. Reference.

## SUBPART A—RENEWABLE ENERGY INCENTIVES

- Sec. 551. Renewable energy credit.
- Sec. 552. Production credit for electricity produced from marine renewables.
- Sec. 553. Energy credit.
- Sec. 554. Credit for residential energy efficient property.
- Sec. 555. Special rule to implement FERC and State electric restructuring policy.
- Sec. 556. New clean renewable energy bonds.

#### SUBPART B—CARBON MITIGATION PROVISIONS

- Sec. 561. Expansion and modification of advanced coal project investment credit.
- Sec. 562. Expansion and modification of coal gasification investment credit.
- Sec. 563. Temporary increase in coal excise tax.
- Sec. 564. Special rules for refund of the coal excise tax to certain coal producers and exporters.
- Sec. 565. Carbon audit of the tax code.

#### SUBPART C—ENERGY CONSERVATION AND EFFICIENCY

- Sec. 571. Qualified energy conservation bonds.
- Sec. 572. Credit for nonbusiness energy property.
- Sec. 573. Energy efficient commercial buildings deduction.
- Sec. 574. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 575. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 576. Qualified green building and sustainable design projects.

#### SUBPART D—GEOTHERMAL INCENTIVES

- Sec. 581. Energy credit for geothermal heat pump systems.
- Sec. 582. 3-year accelerated depreciation period for geothermal heat pump systems.

### TITLE VI—INCREASED DOMESTIC PRODUCTION

#### Subtitle A—Outer Continental Shelf

- Sec. 601. Prohibition on leasing.
- Sec. 602. Opening of certain areas to oil and gas leasing.
- Sec. 603. Coastal State roles and responsibilities.
- Sec. 604. Protection of the environment and conservation of the natural resources of the Outer Continental Shelf.
- Sec. 605. Limitations.
- Sec. 606. Prohibition on leasing in certain Federal protected areas.
- Sec. 607. No effect on applicable law.
- Sec. 608. Buy American requirements.
- Sec. 609. Small, woman-owned, and minority-owned businesses.
- Sec. 610. OCS joint permitting offices.
- Sec. 611. Definitions.

#### Subtitle B—Drill Responsibly in Leased Lands

- Sec. 621. Issuance of new leases.
- Sec. 622. Fair return on production of Federal oil and gas resources.

#### Subtitle C—Coal Innovation Direct Loan Program

Sec. 631. Coal innovation direct loan program.

Subtitle D—Nuclear Power

Sec. 641. Nuclear Regulatory Commission.

Sec. 642. Nuclear energy workforce.

Sec. 643. Interagency working group to promote domestic manufacturing base for nuclear components and equipment.

Subtitle E—Carbon Sequestrations

Sec. 651. Tax credit for carbon dioxide sequestration.

TITLE VII—OFFSETS

Sec. 700. Reference.

Subtitle A—Ending Unneeded Tax Breaks

Sec. 701. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 702. 7-year amortization of geological and geophysical expenditures for certain major integrated oil companies.

Sec. 703. Clarification of determination of foreign oil and gas extraction income.

Sec. 704. Clarification of eligibility for renewable diesel credit.

Sec. 705. Clarification that credits for fuel are designed to provide an incentive for United States production.

Subtitle B—Additional Revenue Provisions

Sec. 711. Nonqualified deferred compensation from certain tax indifferent parties.

Sec. 712. Delay in application of worldwide allocation of interest.

Sec. 713. Time for payment of corporate estimated taxes.

# 1 **TITLE I—SHORT-TERM RELIEF** 2 **FOR AMERICAN ENERGY CON-** 3 **SUMERS**

## 4 **Subtitle A—Consumer Energy** 5 **Supply**

### 6 **SEC. 101. DEFINITIONS.**

7 In this subtitle—

8 (1) the term “light grade petroleum” means  
9 crude oil with an API gravity of 30 degrees or high-  
10 er;

1           (2) the term “heavy grade petroleum” means  
2       crude oil with an API gravity of 26 degrees or lower;  
3       and

4           (3) the term “Secretary” means the Secretary  
5       of Energy.

6       **SEC. 102. SALE AND REPLACEMENT OF OIL FROM THE**  
7                               **STRATEGIC PETROLEUM RESERVE.**

8       (a) INITIAL PETROLEUM SALE AND REPLACE-  
9       MENT.—Notwithstanding section 161 of the Energy Policy  
10      and Conservation Act (42 U.S.C. 6241), the Secretary  
11      shall publish a plan not later than 15 days after the date  
12      of enactment of this Act to—

13           (1) sell, in the amounts and on the schedule de-  
14      scribed in subsection (b), light grade petroleum from  
15      the Strategic Petroleum Reserve and acquire an  
16      equivalent volume of heavy grade petroleum;

17           (2) deposit the cash proceeds from sales under  
18      paragraph (1) into the SPR Petroleum Account es-  
19      tablished under section 167 of the Energy Policy  
20      and Conservation Act (42 U.S.C. 6247); and

21           (3) from the cash proceeds deposited pursuant  
22      to paragraph (2), withdraw the amount necessary to  
23      pay for the direct administrative and operational  
24      costs of the sale and acquisition.

1       (b) AMOUNTS AND SCHEDULE.—The sale and acqui-  
2       sition described in subsection (a) shall require the offer  
3       for sale of a total quantity of 70,000,000 barrels of light  
4       grade petroleum from the Strategic Petroleum Reserve.  
5       The sale shall commence, whether or not a plan has been  
6       published under subsection (a), not later than 30 days  
7       after the date of enactment of this Act and be completed  
8       no more than 6 months after the date of enactment of  
9       this Act, with at least 20,000,000 barrels to be offered  
10      for sale within the first 60 days after the date of enact-  
11      ment of this Act. In no event shall the Secretary sell bar-  
12      rels of oil under subsection (a) that would result in a Stra-  
13      tegic Petroleum Reserve that contains fewer than 90 per-  
14      cent of the total amount of barrels in the Strategic Petro-  
15      leum Reserve as of the date of enactment of this Act.  
16      Heavy grade petroleum, to replace the quantities of light  
17      grade petroleum sold under this section, shall be obtained  
18      through acquisitions which—

19               (1) shall commence no sooner than 6 months  
20              after the date of enactment of this Act;

21               (2) shall be completed, at the discretion of the  
22              Secretary, not later than 5 years after the date of  
23              enactment of this Act;

1           (3) shall be carried out in a manner so as to  
 2       maximize the monetary value to the Federal Govern-  
 3       ment; and

4           (4) shall be acquired using the receipts from  
 5       the sale of light petroleum authorized under this sec-  
 6       tion.

7       (c) DEFERRALS.—The Secretary is encouraged to,  
 8       when economically beneficial and practical, grant requests  
 9       to defer scheduled deliveries of petroleum to the Reserve  
 10      under subsection (a) if the deferral will result in a pre-  
 11      mium paid in additional barrels of oil which will reduce  
 12      the cost of oil acquisition and increase the volume of oil  
 13      delivered to the Reserve or yield additional cash bonuses.

## 14       **Subtitle B—Commodity Markets** 15       **Transparency and Accountability**

### 16       **SEC. 111. DEFINITION OF ENERGY COMMODITY.**

17       (a) DEFINITION OF ENERGY COMMODITY.—Section  
 18      1a of the Commodity Exchange Act (7 U.S.C. 1a) is  
 19      amended—

20           (1) by redesignating paragraphs (13) through  
 21           (34) as paragraphs (14) through (35), respectively;  
 22           and

23           (2) by inserting after paragraph (12) the fol-  
 24           lowing:



1 “(13) ENERGY COMMODITY.—The term ‘energy  
2 commodity’ means—

3 “(A) coal;

4 “(B) crude oil, gasoline, diesel fuel, jet  
5 fuel, heating oil, and propane;

6 “(C) electricity;

7 “(D) natural gas; and

8 “(E) any other substance that is used as  
9 a source of energy, as the Commission, in its  
10 discretion, deems appropriate.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 2(c)(2)(B)(i)(II)(cc) of the Com-  
13 modity Exchange Act (7 U.S.C.  
14 2(c)(2)(B)(i)(II)(cc)) is amended—

15 (A) in subitem (AA), by striking “section  
16 1a(20)” and inserting “section 1a(21)”; and

17 (B) in subitem (BB), by striking “section  
18 1a(20)” and inserting “section 1a(21)”.

19 (2) Section 13106(b)(1) of the Food, Conserva-  
20 tion, and Energy Act of 2008 is amended by striking  
21 “section 1a(32)” and inserting “section 1a”.

22 (3) Section 402 of the Legal Certainty for  
23 Bank Products Act of 2000 (7 U.S.C. 27) is amend-  
24 ed—

1 (A) in subsection (a)(7), by striking “sec-  
 2 tion 1a(20)” and inserting “section 1a”; and

3 (B) in subsection (d)—

4 (i) in paragraph (1)(B), by striking  
 5 “section 1a(33)” and inserting “section  
 6 1a”; and

7 (ii) in paragraph (2)(D), by striking  
 8 “section 1a(13)” and inserting “section  
 9 1a”.

10 **SEC. 112. SPECULATIVE LIMITS AND TRANSPARENCY OF**  
 11 **OFF-SHORE TRADING.**

12 (a) IN GENERAL.—Section 4 of the Commodity Ex-  
 13 change Act (7 U.S.C. 6) is amended by adding at the end  
 14 the following:

15 “(e) FOREIGN BOARDS OF TRADE.—

16 “(1) IN GENERAL.—The Commission may not  
 17 permit a foreign board of trade to provide to the  
 18 members of the foreign board of trade or other par-  
 19 ticipants located in the United States direct access  
 20 to the electronic trading and order matching system  
 21 of the foreign board of trade with respect to an  
 22 agreement, contract, or transaction in an energy or  
 23 agricultural commodity that settles against any price  
 24 (including the daily or final settlement price) of 1 or

1 more contracts listed for trading on a registered en-  
2 tity, unless—

3 “(A) the foreign board of trade makes pub-  
4 lic daily trading information regarding the  
5 agreement, contract, or transaction that is com-  
6 parable to the daily trading information pub-  
7 lished by the registered entity for the 1 or more  
8 contracts against which the agreement, con-  
9 tract, or transaction traded on the foreign  
10 board of trade settles; and

11 “(B) the foreign board of trade (or the for-  
12 eign futures authority that oversees the foreign  
13 board of trade)—

14 “(i) adopts position limits (including  
15 related hedge exemption provisions) for the  
16 agreement, contract, or transaction that  
17 are comparable, taking into consideration  
18 the relative sizes of the respective markets,  
19 to the position limits (including related  
20 hedge exemption provisions) adopted by  
21 the registered entity for the 1 or more con-  
22 tracts against which the agreement, con-  
23 tract, or transaction traded on the foreign  
24 board of trade settles;

1           “(ii) has the authority to require or  
2           direct market participants to limit, reduce,  
3           or liquidate any position the foreign board  
4           of trade (or the foreign futures authority  
5           that oversees the foreign board of trade)  
6           determines to be necessary to prevent or  
7           reduce the threat of price manipulation,  
8           excessive speculation as described in sec-  
9           tion 4a, price distortion, or disruption of  
10          delivery or the cash settlement process;

11          “(iii) agrees to promptly notify the  
12          Commission of any change regarding—

13               “(I) the information that the for-  
14               eign board of trade will make publicly  
15               available;

16               “(II) the position limits that the  
17               foreign board of trade or foreign fu-  
18               tures authority will adopt and enforce;

19               “(III) the position reductions re-  
20               quired to prevent manipulation, exces-  
21               sive speculation as described in sec-  
22               tion 4a, price distortion, or disruption  
23               of delivery or the cash settlement  
24               process; and

1                   “(IV) any other area of interest  
2                   expressed by the Commission to the  
3                   foreign board of trade or foreign fu-  
4                   tures authority;

5                   “(iv) provides information to the  
6                   Commission regarding large trader posi-  
7                   tions in the agreement, contract, or trans-  
8                   action that is comparable to the large trad-  
9                   er position information collected by the  
10                  Commission for the 1 or more contracts  
11                  against which the agreement, contract, or  
12                  transaction traded on the foreign board of  
13                  trade settles; and

14                  “(v) provides the Commission with in-  
15                  formation necessary to publish reports on  
16                  aggregate trader positions for the agree-  
17                  ment, contract, or transaction traded on  
18                  the foreign board of trade that are com-  
19                  parable to such reports for 1 or more con-  
20                  tracts against which the agreement, con-  
21                  tract, or transaction traded on the foreign  
22                  board of trade settles.

23                  “(2) EXISTING FOREIGN BOARDS OF TRADE.—  
24                  Paragraph (1) shall not be effective with respect to  
25                  any agreement, contract, or transaction in an energy

1 commodity executed on a foreign board of trade to  
2 which the Commission had granted direct access  
3 permission before the date of the enactment of this  
4 subsection until the date that is 180 days after such  
5 date of enactment.”.

6 (b) LIABILITY OF REGISTERED PERSONS TRADING  
7 ON A FOREIGN BOARD OF TRADE.—

8 (1) Section 4(a) of such Act (7 U.S.C. 6(a)) is  
9 amended by inserting “or by subsection (f)” after  
10 “Unless exempted by the Commission pursuant to  
11 subsection (c)”.

12 (2) Section 4 of such Act (7 U.S.C. 6) is fur-  
13 ther amended by adding at the end the following:

14 “(f) A person registered with the Commission, or ex-  
15 empt from registration by the Commission, under this Act  
16 may not be found to have violated subsection (a) with re-  
17 spect to a transaction in, or in connection with, a contract  
18 of sale of a commodity for future delivery if the person  
19 has reason to believe the transaction and the contract is  
20 made on or subject to the rules of a board of trade that  
21 is legally organized under the laws of a foreign country,  
22 authorized to act as a board of trade by a foreign futures  
23 authority, subject to regulation by the foreign futures au-  
24 thority, and has not been determined by the Commission  
25 to be operating in violation of subsection (a).”.

1 (c) CONTRACT ENFORCEMENT FOR FOREIGN FU-  
 2 TURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C.  
 3 25(a)) is amended by adding at the end the following:

4 “(5) A contract of sale of a commodity for fu-  
 5 ture delivery traded or executed on or through the  
 6 facilities of a board of trade, exchange, or market lo-  
 7 cated outside the United States for purposes of sec-  
 8 tion 4(a) shall not be void, voidable, or unenforce-  
 9 able, and a party to such a contract shall not be en-  
 10 titled to rescind or recover any payment made with  
 11 respect to the contract, based on the failure of the  
 12 foreign board of trade to comply with any provision  
 13 of this Act.”.

14 **SEC. 113. DISAGGREGATION OF INDEX FUNDS AND OTHER**  
 15 **DATA IN ENERGY AND AGRICULTURE MAR-**  
 16 **KETS.**

17 Section 4 of the Commodity Exchange Act (7 U.S.C.  
 18 6), as amended by section 112 of this Act, is amended  
 19 by adding at the end the following:

20 “(g) DISAGGREGATION OF INDEX FUNDS AND  
 21 OTHER DATA IN ENERGY AND AGRICULTURE MAR-  
 22 KETS.—Subject to section 8 and beginning within 30 days  
 23 of the issuance of the final rule required by section 4h,  
 24 the Commission shall disaggregate and make public week-  
 25 ly—

1           “(1) the number of positions and total value of  
2       index funds and other passive, long-only and short-  
3       only positions (as defined by the Commission) in all  
4       energy and agricultural markets to the extent such  
5       information is available; and

6           “(2) data on speculative positions relative to  
7       bona fide physical hedgers in those markets to the  
8       extent such information is available.”.

9   **SEC. 114. DETAILED REPORTING FROM INDEX TRADERS**  
10                   **AND SWAP DEALERS.**

11       Section 4 of the Commodity Exchange Act (7 U.S.C.  
12   6), as amended by sections 112 and 113 of this Act, is  
13   amended by adding at the end the following:

14       “(h) INDEX TRADERS AND SWAP DEALERS REPORT-  
15   ING.—The Commission shall issue a proposed rule defin-  
16   ing and classifying index traders and swap dealers (as  
17   those terms are defined by the Commission) for purposes  
18   of data reporting requirements and setting routine de-  
19   tailed reporting requirements for such entities in des-  
20   ignated contract markets, derivatives transaction execu-  
21   tion facilities, foreign boards of trade subject to section  
22   4(e), and electronic trading facilities with respect to sig-  
23   nificant price discovery contracts with respect to exempt  
24   and agricultural commodities not later than 60 days after  
25   the date of the enactment of this subsection, and issue



1 a final rule within 120 days after such date of enact-  
 2 ment.”.

3 **SEC. 115. TRANSPARENCY AND RECORDKEEPING AUTHORI-**  
 4 **TIES.**

5 (a) IN GENERAL.—Section 4g(a) of the Commodity  
 6 Exchange Act (7 U.S.C. 6g(a)) is amended—

7 (1) by inserting “a” before “futures commission  
 8 merchant”; and

9 (2) by inserting “and transactions and positions  
 10 traded pursuant to subsection (g), (h)(1), or (h)(2)  
 11 of section 2, or any exemption issued by the Com-  
 12 mission by rule, regulation or order,” after “United  
 13 States or elsewhere,”.

14 (b) REPORTS OF DEALS EQUAL TO OR IN EXCESS  
 15 OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C.  
 16 6i) is amended—

17 (1) in the first sentence—

18 (A) by inserting “(a)” before “It shall”;

19 and

20 (B) by inserting “in the United States or  
 21 elsewhere, and of transactions and positions in  
 22 any such commodity entered into pursuant to  
 23 subsection (g), (h)(1), or (h)(2) of section 2, or  
 24 any exemption issued by the Commission by

1 rule, regulation or order” before “, and of cash  
2 or spot”; and

3 (2) by striking all that follows the 1st sentence  
4 and inserting the following:

5 “(b) With respect to agricultural and energy com-  
6 modities, upon special call by the Commission, any person  
7 shall provide to the Commission, in a form and manner  
8 and within the period specified in the special call, books  
9 and records of all transactions and positions traded on or  
10 subject to the rules of any board of trade or electronic  
11 trading facility in the United States or elsewhere, or pur-  
12 suant to subsection (g), (h)(1), or (h)(2) of section 2, or  
13 any exemption issued by the Commission by rule, regula-  
14 tion, or order, as the Commission may determine appro-  
15 priate to deter and prevent price manipulation or any  
16 other disruption to market integrity or to diminish, elimi-  
17 nate, or prevent excessive speculation as described in sec-  
18 tion 4a(a).

19 “(c) Such books and records described in subsections  
20 (a) and (b) shall show complete details concerning all such  
21 transactions, positions, inventories, and commitments, in-  
22 cluding the names and addresses of all persons having any  
23 interest therein, shall be kept for a period of 5 years, and  
24 shall be open at all times to inspection by any representa-  
25 tive of the Commission or the Department of Justice. For

1 the purposes of this section, the futures and cash or spot  
 2 transactions and positions of any person shall include such  
 3 transactions and positions of any persons directly or indi-  
 4 rectly controlled by the person.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is  
 7 amended—

8 (A) by inserting “4g(a), 4i,” before “5a  
 9 (to”; and

10 (B) by inserting “, and the regulations of  
 11 the Commission pursuant to section 4c(b) re-  
 12 quiring reporting in connection with commodity  
 13 option transactions,” before “shall apply”.

14 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.  
 15 2(h)(2)(A)) is amended to read as follows:

16 “(A) sections 4g(a), 4i, 5b, and  
 17 12(e)(2)(B), and the regulations of the Com-  
 18 mission pursuant to section 4c(b) requiring re-  
 19 porting in connection with commodity option  
 20 transactions;”.

21 **SEC. 116. TRADING LIMITS TO PREVENT EXCESSIVE SPECU-**  
 22 **LATION.**

23 Section 4a of the Commodity Exchange Act (7 U.S.C.  
 24 6a) is amended—

25 (1) in subsection (a)—

1 (A) by inserting “(1)” after “(a)”; and

2 (B) by adding after and below the end the  
3 following:

4 “(2) In accordance with the standards set forth  
5 in paragraph (1) of this subsection and consistent  
6 with the good faith exception cited in subsection  
7 (b)(2), with respect to agricultural commodities enu-  
8 merated in section 1a(4) and energy commodities,  
9 the Commission, within 60 days after the date of the  
10 enactment of this paragraph, shall by rule, regula-  
11 tion, or order establish limits on the amount of posi-  
12 tions that may be held by any person with respect  
13 to contracts of sale for future delivery or with re-  
14 spect to options on such contracts or commodities  
15 traded on or subject to the rules of a contract mar-  
16 ket or derivatives transaction execution facility, or  
17 on an electronic trading facility as a significant price  
18 discovery contract.

19 “(3) In establishing the limits required in para-  
20 graph (2), the Commission shall set limits—

21 “(A) on the number of positions that may  
22 be held by any person for the spot month, each  
23 other month, and the aggregate number of posi-  
24 tions that may be held by any person for all  
25 months;

1           “(B) to the maximum extent practicable,  
2           in its discretion—

3                   “(i) to diminish, eliminate, or prevent  
4                   excessive speculation as described under  
5                   this section;

6                   “(ii) to deter and prevent market ma-  
7                   nipulation, squeezes, and corners;

8                   “(iii) to ensure sufficient market li-  
9                   quidity for bona fide hedgers; and

10                  “(iv) to ensure that the price dis-  
11                  covery function of the underlying market is  
12                  not disrupted; and

13                  “(C) to the maximum extent practicable, in  
14                  its discretion, take into account the total num-  
15                  ber of positions in fungible agreements, con-  
16                  tracts, or transactions that a person can hold in  
17                  agricultural and energy commodities in other  
18                  markets.

19                  “(4)(A) Not later than 150 days after the date  
20                  of the enactment of this paragraph, the Commission  
21                  shall convene a Position Limit Agricultural Advisory  
22                  Group and a Position Limit Energy Group, each  
23                  group consisting of representatives from—

1           “(i) 5 predominantly commercial short  
2 hedgers of the actual physical commodity for  
3 future delivery;

4           “(ii) 5 predominantly commercial long  
5 hedgers of the actual physical commodity for  
6 future delivery;

7           “(iii) 4 noncommercial participants in mar-  
8 kets for commodities for future delivery; and

9           “(iv) each designated contract market or  
10 derivatives transaction execution facility upon  
11 which a contract in the commodity for future  
12 delivery is traded, and each electronic trading  
13 facility that has a significant price discovery  
14 contract in the commodity.

15          “(B) Not later than 60 days after the date on  
16 which the advisory groups are convened under sub-  
17 paragraph (A), and annually thereafter, the advisory  
18 groups shall submit to the Commission advisory rec-  
19 ommendations regarding the position limits to be es-  
20 tablished in paragraph (2) and a recommendation as  
21 to whether the position limits should be administered  
22 directly by the Commission, or by the registered en-  
23 tity on which the commodity is listed (with enforce-  
24 ment by both the registered entity and the Commis-  
25 sion).”; and

1 (2) in subsection (c)—

2 (A) by inserting “(1)” after “(c)”; and

3 (B) by adding after and below the end the  
4 following:

5 “(2) With respect to agricultural and energy  
6 commodities, for the purposes of contracts of sale  
7 for future delivery and options on such contracts or  
8 commodities, a bona fide hedging transaction or po-  
9 sition is a transaction or position that—

10 “(A)(i) represents a substitute for trans-  
11 actions to be made or positions to be taken at  
12 a later time in a physical marketing channel;

13 “(ii) is economically appropriate to the re-  
14 duction of risks in the conduct and manage-  
15 ment of a commercial enterprise; and

16 “(iii) arises from the potential change in  
17 the value of—

18 “(I) assets that a person owns, pro-  
19 duces, manufactures, processes, or mer-  
20 chandises or anticipates owning, producing,  
21 manufacturing, processing, or merchan-  
22 dising;

23 “(II) liabilities that a person owns or  
24 anticipates incurring; or

1 “(III) services that a person provides,  
 2 purchases, or anticipates providing or pur-  
 3 chasing; or

4 “(B) reduces risks attendant to a position  
 5 resulting from a transaction that—

6 “(i) was executed pursuant to sub-  
 7 section (g), (h)(1), or (h)(2) of section 2,  
 8 or an exemption issued by the Commission  
 9 by rule, regulation or order; and

10 “(ii) was executed opposite a  
 11 counterparty for which the transaction  
 12 would qualify as a bona fide hedging trans-  
 13 action pursuant to paragraph (2)(A) of  
 14 this subsection.”.

15 **SEC. 117. MODIFICATIONS TO CORE PRINCIPLES APPLICA-**  
 16 **BLE TO POSITION LIMITS FOR CONTRACTS IN**  
 17 **AGRICULTURAL AND ENERGY COMMODITIES.**

18 (a) CONTRACTS TRADED ON CONTRACT MARKETS.—  
 19 Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C.  
 20 7(d)(5)) is amended by striking all that follows “adopt”  
 21 and inserting “, for speculators, position limitations with  
 22 respect to agricultural commodities enumerated in section  
 23 1a(4) or energy commodities, and position limitations or  
 24 position accountability with respect to other commodities,  
 25 where necessary and appropriate.”.



1 (b) CONTRACTS TRADED ON DERIVATIVES TRANS-  
2 ACTION EXECUTION FACILITIES.—Section 5a(d)(4) of  
3 such Act (7 U.S.C. 7a(d)(4)) is amended by striking all  
4 that follows “adopt” and inserting “, for speculators, posi-  
5 tion limitations with respect to energy commodities, and  
6 position limitations or position accountability with respect  
7 to other commodities, where necessary and appropriate for  
8 a contract, agreement or transaction with an underlying  
9 commodity that has a physically deliverable supply.”.

10 (c) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—  
11 Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C.  
12 2(h)(7)(C)(ii)(IV)) is amended by striking “where nec-  
13 essary” and all that follows through “in significant price  
14 discovery contracts” and inserting “for speculators, posi-  
15 tion limitations with respect to significant price discovery  
16 contracts in energy commodities, and position limitations  
17 or position accountability with respect to significant price  
18 discovery contracts in other commodities”.

19 **SEC. 118. CFTC ADMINISTRATION.**

20 (a) ADDITIONAL COMMODITY FUTURES TRADING  
21 COMMISSION EMPLOYEES FOR IMPROVED ENFORCE-  
22 MENT.—Section 2(a)(7) of the Commodity Exchange Act  
23 (7 U.S.C. 2(a)(7)) is amended by adding at the end the  
24 following:

“(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of the enactment of this subparagraph, subject to appropriations, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of the enactment of this subparagraph)—

“(i) to increase the public transparency of operations in agriculture and energy markets;

“(ii) to improve the enforcement of this Act in those markets; and

“(iii) to carry out such other duties as are prescribed by the Commission.”.

(b) INSPECTOR GENERAL OF COMMODITY FUTURES TRADING COMMISSION.—

(1) ELEVATION OF OFFICE.—

(A) INCLUSION OF CFTC IN DEFINITION OF ESTABLISHMENT.—Section 11(2) of the Inspector General Act of 1878 (5 U.S.C. App.) is amended by striking “or the Export-Import Bank,” and inserting “, the Export-Import Bank, or the Commodity Futures Trading Commission,”.

1 (B) EXCLUSION OF CFTC FROM DEFINI-  
2 TION OF DESIGNATED FEDERAL ENTITY.—Sec-  
3 tion 8G(a)(2) of such Act (5 U.S.C. App.) is  
4 amended by striking “the Commodity Futures  
5 Trading Commission,”.

6 (2) TRANSITION.—Until such time as the In-  
7 spector General of the Commodity Futures Trading  
8 Commission is appointed in accordance with section  
9 3 of the Inspector General Act of 1978, the Office  
10 of Inspector General of the Commission shall con-  
11 tinue in effect as provided in such Act before the  
12 date of the enactment of this Act.

13 **SEC. 119. REVIEW OF PRIOR ACTIONS.**

14 Notwithstanding any provision of the Commodity Ex-  
15 change Act, the Commodity Futures Trading Commission  
16 shall review, as appropriate, all regulations, rules, exemp-  
17 tions, exclusions, guidance, no action letters, orders, other  
18 actions taken by or on behalf of the Commission, and any  
19 action taken pursuant to the Commodity Exchange Act  
20 by an exchange, self-regulatory organization, or any other  
21 registered entity, that are currently in effect, to ensure  
22 that such prior actions are in compliance with the provi-  
23 sions of this title.

1 **SEC. 120. REVIEW OF OVER-THE-COUNTER MARKETS.**

2 (a) STUDY.—The Commodity Futures Trading Com-  
3 mission shall conduct a study—

4 (1) to determine the efficacy, practicality, and  
5 consequences of establishing position limits for  
6 agreements, contracts, or transactions conducted in  
7 reliance on sections 2(g) and 2(h) of the Commodity  
8 Exchange Act and of any exemption issued by the  
9 Commission by rule, regulation or order, as a means  
10 to deter and prevent price manipulation or any other  
11 disruption to market integrity or to diminish, elimi-  
12 nate, or prevent excessive speculation as described in  
13 section 4a of such Act for physical-based commod-  
14 ities; and

15 (2) to determine the efficacy, practicality, and  
16 consequences of establishing aggregate position lim-  
17 its for similar agreements, contracts, or transactions  
18 for physical-based commodities traded—

19 (A) on designated contract markets;

20 (B) on derivatives transaction execution fa-  
21 cilities; and

22 (C) in reliance on such sections 2(g) and  
23 2(h) and of any exemption issued by the Com-  
24 mission by rule, regulation or order.

25 (b) PUBLIC HEARINGS.—The Commission shall pro-  
26 vide for not less than 2 public hearings to take testimony,

1 on the record, as part of the fact-gathering process in  
2 preparation of the report.

3 (c) REPORT AND RECOMMENDATIONS.—Not less  
4 than 12 months after the date of the enactment of this  
5 section, the Commission shall provide to the Committee  
6 on Agriculture of the House of Representatives and the  
7 Committee on Agriculture, Nutrition, and Forestry of the  
8 Senate a report that—

9 (1) describes the results of the study; and

10 (2) provides recommendations on any actions  
11 necessary to deter and prevent price manipulation or  
12 any other disruption to market integrity or to dimin-  
13 ish, eliminate, or prevent excessive speculation as de-  
14 scribed in section 4a of the Commodity Exchange  
15 Act for physical-based commodities, including—

16 (A) any additional statutory authority that  
17 the Commission determines to be necessary to  
18 implement the recommendations; and

19 (B) a description of the resources that the  
20 Commission considers to be necessary to imple-  
21 ment the recommendations.

22 **SEC. 121. STUDIES; REPORTS.**

23 (a) STUDY RELATING TO INTERNATIONAL REGULA-  
24 TION OF ENERGY COMMODITY MARKETS.—

1           (1) IN GENERAL.—The Comptroller General of  
2           the United States shall conduct a study of the inter-  
3           national regime for regulating the trading of energy  
4           commodity futures and derivatives.

5           (2) ANALYSIS.—The study shall include an  
6           analysis of, at a minimum—

7                   (A) key common features and differences  
8                   among countries in the regulation of energy  
9                   commodity trading, including with respect to  
10                  market oversight and enforcement standards  
11                  and activities;

12                  (B) variations among countries with re-  
13                  spect to the use of position limits, position ac-  
14                  countability levels, or other thresholds to detect  
15                  and prevent price manipulation, excessive spec-  
16                  ulation as described in section 4a of the Com-  
17                  modity Exchange Act, or other unfair trading  
18                  practices;

19                  (C) variations in practices regarding the  
20                  differentiation of commercial and noncommer-  
21                  cial trading;

22                  (D) agreements and practices for sharing  
23                  market and trading data among futures au-  
24                  thorities and between futures authorities and

1 the entities that the futures authorities oversee;  
2 and

3 (E) agreements and practices for facili-  
4 tating international cooperation on market over-  
5 sight, compliance, and enforcement.

6 (3) REPORT.—Not later than 1 year after the  
7 date of the enactment of this Act, the Comptroller  
8 General shall submit to the Committee on Agri-  
9 culture of the House of Representatives and the  
10 Committee on Agriculture, Nutrition, and Forestry  
11 of the Senate a report that—

12 (A) describes the results of the study;

13 (B) addresses whether there is excessive  
14 speculation, and if so, the effects of any such  
15 speculation and energy price volatility on energy  
16 futures; and

17 (C) provides recommendations to improve  
18 openness, transparency, and other necessary  
19 elements of a properly functioning market in a  
20 manner that protects consumers in the United  
21 States.

22 (b) STUDY RELATING TO EFFECTS OF SPECULATORS  
23 ON AGRICULTURE AND ENERGY FUTURES MARKETS AND  
24 AGRICULTURE AND ENERGY PRICES.—

1           (1) STUDY.—The Comptroller General of the  
2           United States shall conduct a study of the effects of  
3           speculators on agriculture and energy futures mar-  
4           kets and agriculture and energy prices.

5           (2) ANALYSIS.—The study shall include an  
6           analysis of, at a minimum—

7                   (A) the effect of increased amounts of cap-  
8                   ital in agriculture and energy futures markets;

9                   (B) the impact of the roll-over of positions  
10                  by index fund traders and swap dealers on agri-  
11                  culture and energy futures markets and agri-  
12                  culture and energy prices; and

13                  (C) the extent to which each factor de-  
14                  scribed in subparagraphs (A) and (B) and spec-  
15                  ulators—

16                   (i) affect—

17                           (I) the pricing of agriculture and  
18                           energy commodities; and

19                           (II) risk management functions;  
20                   and

21                   (ii) contribute to economically efficient  
22                  price discovery.

23           (3) REPORT.—Not later than 2 years after the  
24           date of the enactment of this Act, the Comptroller  
25           General shall submit to the Committee on Agri-



1 culture of the House of Representatives and the  
2 Committee on Agriculture, Nutrition, and Forestry  
3 of the Senate a report that describes the results of  
4 the study.

5 **SEC. 122. OVER-THE-COUNTER AUTHORITY.**

6 (a) IN GENERAL.—Section 2 of the Commodity Ex-  
7 change Act (7 U.S.C. 2) is amended by adding at the end  
8 the following:

9 “(j) OVER-THE-COUNTER AUTHORITY.—

10 “(1) Within 60 days after the date of the enact-  
11 ment of this subsection, the Commission shall, by  
12 rule, regulation, or order, require routine reporting  
13 as it deems in its discretion appropriate, on not less  
14 than a monthly basis, of agreements, contracts, or  
15 transactions, with regard to an agricultural or en-  
16 ergy commodity, entered into in reliance on sub-  
17 section (g), (h)(1), or (h)(2) of section 2, or any ex-  
18 emption issued by the Commission by rule, regula-  
19 tion, or order that are fungible (as defined by the  
20 Commission) with agreements, contracts, or trans-  
21 actions traded on or subject to the rules of any  
22 board of trade or of any electronic trading facility  
23 with respect to a significant price discovery contract.

24 “(2) Notwithstanding subsections (g), (h)(1),  
25 and (h)(2) of section 2, and any exemption issued by

1 the Commission by rule, regulation, or order, the  
2 Commission shall assess and issue a finding on  
3 whether the agreements, contracts, or transactions  
4 reported pursuant to paragraph (1), alone or in con-  
5 junction with other similar agreements, contracts, or  
6 transactions, have the potential to—

7 “(A) disrupt the liquidity or price dis-  
8 covery function on a registered entity;

9 “(B) cause a severe market disturbance in  
10 the underlying cash or futures market for an  
11 agricultural or energy commodity; or

12 “(C) prevent or otherwise impair the price  
13 of a contract listed for trading on a registered  
14 entity from reflecting the forces of supply and  
15 demand in any market for an agricultural com-  
16 modity enumerated in section 1a(4) or an en-  
17 ergy commodity.

18 “(3) If the Commission makes a finding pursu-  
19 ant to paragraph (2) of this subsection, the Commis-  
20 sion may, in its discretion, utilize its authority under  
21 section 8a(9) to impose position limits for specu-  
22 lators on the agreements, contracts, or transactions  
23 involved and take corrective actions to enforce the  
24 limits.”.

25 (b) CONFORMING AMENDMENTS.—

1           (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is  
 2           amended by inserting “subsection (j) of this section,  
 3           and” after “(other than”.

4           (2) Section 2(h)(2)(A) of such Act (7 U.S.C.  
 5           2(h)(2)(A)) is amended by inserting “subsection (j)  
 6           of this section and” before “sections”.

7           (3) Section 8a(9) of such Act (7 U.S.C.  
 8           12a(a)(9)) is amended by inserting after “of the  
 9           Commission’s action” the following: “, and to fix  
 10          and enforce limits to agreements, contracts, or  
 11          transaction subject to section 2(j)(1) pursuant to a  
 12          finding made under section 2(j)(2)”.

13 **SEC. 123. EXPEDITED PROCESS.**

14          The Commodity Futures Trading Commission may  
 15          use emergency and expedited procedures (including any  
 16          administrative or other procedure as appropriate) to carry  
 17          out this title and the amendments made by this title if,  
 18          in its discretion, it deems it necessary to do so.

19 **TITLE II—NATIONAL COMMIS-**  
 20 **SION ON ENERGY INDEPEND-**  
 21 **ENCE**

22 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

23          There is established in the legislative branch the Na-  
 24          tional Commission on Energy Independence (referred to  
 25          in this title as the “Commission”).

1 **SEC. 202. PURPOSE.**

2       The purpose of the Commission is to study and make  
3 recommendations to Congress and the President to remove  
4 technical obstacles and policy barriers for the United  
5 States to achieve independence from foreign oil.

6 **SEC. 203. COMPOSITION OF COMMISSION.**

7       (a) MEMBERS.—The Commission shall be composed  
8 of 12 members, of whom—

9           (1) 1 member shall be jointly appointed by the  
10 majority leader of the Senate and the Speaker of the  
11 House of Representatives, who shall serve as Chair-  
12 person of the Commission;

13           (2) 1 member shall be jointly appointed by the  
14 minority leader of the Senate and the minority lead-  
15 er of the House of Representatives, who shall serve  
16 as Vice-Chairperson of the Commission;

17           (3)(A) 1 member shall be jointly appointed by  
18 the Chair and ranking member of the Committee on  
19 the Environment and Public Works of the Senate;  
20 and

21           (B) 1 member shall be jointly appointed by the  
22 Chair and ranking member of the Committee on  
23 Natural Resources of the House of Representatives,  
24 in consultation with the Select Committee on Energy  
25 Independence and Global Warming of the House of  
26 Representatives;

1           (4)(A) 1 member shall be jointly appointed by  
2           the Chair and ranking member of the Committee on  
3           Energy and Natural Resources of the Senate; and

4           (B) 1 member shall be jointly appointed by the  
5           Chair and ranking member of the Committee on En-  
6           ergy and Commerce of the House of Representa-  
7           tives;

8           (5)(A) 1 member shall be jointly appointed by  
9           the Chair and ranking member of the Committee on  
10          Commerce, Science and Transportation of the Sen-  
11          ate; and

12          (B) 1 member shall be jointly appointed by the  
13          Chair and ranking member of the Committee on  
14          Science and Technology of the House of Representa-  
15          tives and the Committee on Transportation and In-  
16          frastructure of the House of Representatives;

17          (6)(A) 1 member shall be jointly appointed by  
18          the Chair and ranking member of the Committee on  
19          Agriculture, Nutrition and Forestry of the Senate;  
20          and

21          (B) 1 member shall be jointly appointed by the  
22          Chair and ranking member of the Committee on Ag-  
23          riculture of the House of Representatives; and

1           (7)(A) 1 member shall be jointly appointed by  
2           the Chair and ranking member of the Committee on  
3           Finance of the Senate; and

4           (B) 1 member shall be jointly appointed by the  
5           Chair and ranking member of the Committee on  
6           Ways and Means of the House of Representatives.

7           (b) QUALIFICATIONS; INITIAL MEETING.—

8           (1) POLITICAL PARTY AFFILIATION.—Each ap-  
9           pointment to the Commission shall be made without  
10          regard to political party affiliation and on a non-  
11          partisan basis.

12          (2) NONGOVERNMENTAL APPOINTEES.—An in-  
13          dividual appointed to the Commission may not be an  
14          officer or employee of the Federal Government or  
15          any State or local government—

16                (A) on the date on which the individual is  
17                appointed to the Commission; or

18                (B) at any time during the term of service  
19                on the Commission of the individual.

20          (3) OTHER QUALIFICATIONS.—It is the sense of  
21          Congress that individuals appointed to the Commis-  
22          sion should be prominent United States citizens,  
23          with national recognition and significant depth of ex-  
24          perience in such professions as governmental service,  
25          science, energy, economics, environment, agriculture,

1 manufacturing, public administration, or commerce  
2 (including aviation matters).

3 (4) DEADLINE FOR APPOINTMENT.—Each  
4 member of the Commission shall be appointed not  
5 later than 90 days after the date of enactment of  
6 this Act.

7 (c) MEETINGS.—

8 (1) INITIAL MEETING.—The Commission shall  
9 hold the initial meeting of the Commission as soon  
10 as practicable, and not later than 60 days, after the  
11 date on which all members of the Commission are  
12 appointed.

13 (2) SUBSEQUENT MEETINGS.—After the initial  
14 meeting under paragraph (1), the Commission shall  
15 meet at the call of—

16 (A) the Chairperson; or

17 (B) a majority of the members of the Com-  
18 mission.

19 (d) QUORUM.—7 members of the Commission shall  
20 constitute a quorum.

21 (e) VACANCIES.—A vacancy on the Commission—

22 (1) shall not affect the powers of the Commis-  
23 sion; and

24 (2) shall be filled in the same manner in which  
25 the original appointment was made.

1 **SEC. 204. FUNCTIONS OF COMMISSION.**

2 The functions of the Commission are—

3 (1) to examine, study, and evaluate the tech-  
4 nical obstacles and policy barriers that need to be  
5 addressed in order for the United States to achieve  
6 independence from foreign oil through a balanced  
7 combination of—

8 (A) increased domestic production of en-  
9 ergy;

10 (B) enhanced energy conservation and effi-  
11 ciency; and

12 (C) the accelerated development of alter-  
13 native fuels and technologies to transition the  
14 United States motor vehicle fleet away from re-  
15 liance on petroleum-based fuels;

16 (2) to investigate matters that relate to achiev-  
17 ing independence from foreign oil, such as—

18 (A) carbon capture and storage;

19 (B) nuclear and renewable energy; and

20 (C) the need for upgrading and  
21 transitioning the national grid and other energy  
22 infrastructure; and

23 (3) to submit to Congress and the President  
24 such reports as are required by section 106 con-  
25 taining such findings, conclusions, and recommenda-  
26 tions as the Commission shall determine to be nec-



1       essary to advise and assist Congress and the Presi-  
2       dent in developing legislation, procedures, rules, and  
3       regulations relating to the removal of technical ob-  
4       stacles and policy barriers to achieve independence  
5       from foreign oil.

6   **SEC. 205. POWERS OF COMMISSION.**

7       (a) IN GENERAL.—

8           (1) RULES.—The Commission may establish  
9       such rules and regulations relating to administrative  
10      procedures as are reasonably necessary to enable the  
11      Commission to carry out this title.

12          (2) HEARINGS AND EVIDENCE.—The Commis-  
13      sion or, on the authority of the Commission, any  
14      subcommittee or member of the Commission may,  
15      for the purpose of carrying out this title, hold such  
16      hearings and sit and act at such times and places,  
17      take such testimony, receive such evidence, and ad-  
18      minister such oaths as the Commission determines  
19      to be appropriate.

20      (b) CONTRACTING.—To the extent amounts are made  
21      available in appropriations Acts, the Commission may  
22      enter into contracts to assist the Commission in carrying  
23      out the duties of the Commission under this title.

24      (c) INFORMATION FROM FEDERAL AGENCIES.—

1           (1) IN GENERAL.—The Commission may secure  
2           directly from a Federal agency such information,  
3           suggestions, estimates, and statistics as the Commis-  
4           sion considers to be necessary to carry out this title.

5           (2) PROVISION OF INFORMATION.—On request  
6           of the Commission, the head of the agency shall pro-  
7           vide the information, suggestions, estimates, and  
8           statistics to the Commission.

9           (3) TREATMENT.—Information provided to the  
10          Commission under this subsection shall be received,  
11          handled, stored, and disseminated by members and  
12          staff of the Commission in accordance with applica-  
13          ble law (including regulations) and Executive orders.

14          (d) ASSISTANCE FROM FEDERAL AGENCIES.—

15               (1) GENERAL SERVICES ADMINISTRATION.—  
16               The Administrator of General Services shall provide  
17               to the Commission, on a reimbursable basis, admin-  
18               istrative support and other services to assist the  
19               Commission in carrying out the duties of the Com-  
20               mission under this title.

21               (2) OTHER DEPARTMENTS AND AGENCIES.—In  
22               addition to the assistance described in paragraph  
23               (1), any other Federal department or agency may  
24               provide to the Commission such services, funds, fa-

1 cilities, staff, and other support as the head of the  
2 department or agency determines to be appropriate.

3 (e) GIFTS.—The Commission may accept, use, and  
4 dispose of gifts or donations of services or property only  
5 in accordance with the ethical rules applicable to congres-  
6 sional officers and employees.

7 (f) VOLUNTEER SERVICES.—

8 (1) IN GENERAL.—Notwithstanding section  
9 1342 of title 31, United States Code, the Commis-  
10 sion may accept and use the services of volunteers  
11 serving without compensation.

12 (2) REIMBURSEMENT.—The Commission may  
13 reimburse a volunteer for office supplies, local travel  
14 expenses, and other travel expenses, including per  
15 diem in lieu of subsistence, in accordance with sec-  
16 tion 5703 of title 5, United States Code.

17 (3) TREATMENT.—A volunteer of the Commis-  
18 sion shall be considered to be an employee of the  
19 Federal Government in carrying out activities for  
20 the Commission, for purposes of—

21 (A) chapter 81 of title 5, United States  
22 Code;

23 (B) chapter 11 of title 18, United States  
24 Code; and

1 (C) chapter 171 of title 28, United States  
2 Code.

3 (g) POSTAL SERVICES.—The Commission may use  
4 the United States mails in the same manner and under  
5 the same conditions as other agencies of the Federal Gov-  
6 ernment.

7 **SEC. 206. REPORTS.**

8 Not later than 1 year after the date on which all  
9 members of the Commission are appointed under section  
10 103 and each year thereafter, the Commission shall sub-  
11 mit to Congress and the President a report that contains  
12 the findings, conclusions, and recommendations of the  
13 Commission to remove the technical obstacles and policy  
14 barriers that need to be addressed in order for the United  
15 States to achieve independence from foreign oil and ad-  
16 dress related matters in accordance with section 103.

17 **SEC. 207. STAFF OF COMMISSION.**

18 (a) IN GENERAL.—The Chairperson of the Commis-  
19 sion (in consultation with the Vice-Chairperson of the  
20 Commission) may, without regard to the civil service laws  
21 (including regulations), appoint and terminate a staff di-  
22 rector and such other additional personnel as are nec-  
23 essary to enable the Commission to perform the duties of  
24 the Commission.

25 (b) COMPENSATION.—

1           (1) IN GENERAL.—Except as provided in para-  
2       graph (2), the Chairperson of the Commission may  
3       fix the compensation of the staff director and other  
4       personnel without regard to the provisions of chapter  
5       51 and subchapter III of chapter 53 of title 5,  
6       United States Code, relating to classification of posi-  
7       tions and General Schedule pay rates.

8           (2) MAXIMUM RATE OF PAY.—The rate of pay  
9       for the staff director and other personnel shall not  
10      exceed the rate payable for level IV of the Executive  
11      Schedule under section 5316 of title 5, United  
12      States Code.

13      (c) STATUS.—The staff director and any employee  
14      (not including any member) of the Commission shall be  
15      considered to be employees under section 2105 of title 5,  
16      United States Code, for purposes of chapters 63, 81, 83,  
17      84, 85, 87, 89, and 90 of that title.

18      (d) CONSULTANT SERVICES.—The Commission may  
19      procure the services of experts and consultants in accord-  
20      ance with section 3109 of title 5, United States Code, at  
21      rates not to exceed the daily rate paid to an individual  
22      occupying a position at level IV of the Executive Schedule  
23      under section 5315 of title 5, United States Code.

1 **SEC. 208. COMPENSATION AND TRAVEL EXPENSES.**

2 (a) COMPENSATION OF MEMBERS.—A member of the  
3 Commission shall be compensated at a rate equal to the  
4 daily equivalent of the annual rate of basic pay prescribed  
5 for level IV of the Executive Schedule under section 5315  
6 of title 5, United States Code, for each day (including  
7 travel time) during which the member is engaged in the  
8 performance of the duties of the Commission.

9 (b) TRAVEL EXPENSES.—A member of the Commis-  
10 sion shall be allowed travel expenses, including per diem  
11 in lieu of subsistence, at rates authorized for an employee  
12 of an agency under subchapter I of chapter 57 of title  
13 5, United States Code, while away from the home or reg-  
14 ular place of business of the member in the performance  
15 of the duties of the Commission.

16 **SEC. 209. MEETINGS.**

17 (a) IN GENERAL.—The Federal Advisory Committee  
18 Act (5 U.S.C. App.) shall not apply to the Commission.

19 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC  
20 VERSIONS OF REPORTS.—The Commission shall ensure,  
21 to the maximum extent practicable, that—

22 (1) all hearings of the Commission are available  
23 to the public, including by—

24 (A) providing live and recorded public ac-  
25 cess to hearings on the Internet; and

1 (B) publishing all transcripts and records  
 2 of hearings at such time and in such manner as  
 3 is agreed to by the majority of members of the  
 4 Commission; and

5 (2) all reports, findings, and conclusions are  
 6 made public.

7 (c) PUBLIC HEARINGS.—Public hearings of the Com-  
 8 mission shall be conducted in a manner consistent with  
 9 the protection of information provided to or developed for  
 10 or by the Commission as required by any applicable law  
 11 (including regulations) or Executive order.

12 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to the Com-  
 14 mission such sums as are necessary to carry out this title,  
 15 to remain available until expended.

16 **TITLE III—ESTABLISH A NA-**  
 17 **TIONAL RENEWABLE ELEC-**  
 18 **TRICITY STANDARD**

19 **SEC. 301. NATIONAL RENEWABLE ELECTRICITY STANDARD.**

20 (a) STANDARD.—Title VI of the Public Utility Regu-  
 21 latory Policies Act of 1978 is amended by adding at the  
 22 end the following:

23 **“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

24 “(a) DEFINITIONS.—For purposes of this section:

25 “(1) BIOMASS.—The term ‘biomass’ means—

1           “(A) cellulosic (plant fiber) organic mate-  
2           rials from a plant that is planted for the pur-  
3           pose of being used to produce energy;

4           “(B) nonhazardous, plant or algal matter  
5           waste materials that is segregated from other  
6           waste materials and is derived from—

7                   “(i) an agricultural crop, crop byprod-  
8                   uct or residue resource;

9                   “(ii) waste such as landscape or right-  
10                  of-way trimmings, but not including—

11                           “(I) municipal solid waste;

12                           “(II) recyclable postconsumer  
13                   waste paper;

14                           “(III) painted, treated, or pres-  
15                   surized wood;

16                           “(IV) wood contaminated with  
17                   plastic or metals; or

18                           “(iii) gasified animal waste;

19                           “(iv) landfill methane; and

20           “(C) with respect to material removed  
21           from National Forest System lands the term in-  
22           cludes only organic material from—

23                   “(i) precommercial thinnings;

24                   “(ii) slash;

25                   “(iii) brush; and



1 “(iv) mill residues.

2 “(2) ELIGIBLE FACILITY.—The term ‘eligible  
3 facility’ means—

4 “(A) a facility for the generation of electric  
5 energy from a renewable energy resource that is  
6 placed in service on or after the date of enact-  
7 ment of this section or the effective date of the  
8 applicable State renewable portfolio standard  
9 program; or

10 “(B) a repowering or cofiring increment  
11 that is placed in service on or after the date of  
12 enactment of this section or the effective date  
13 of the applicable State renewable portfolio  
14 standard program, at a facility for the genera-  
15 tion of electric energy from a renewable energy  
16 resource that was placed in service before that  
17 date.

18 “(3) EXISTING FACILITY OFFSET.—The term  
19 ‘existing facility offset’ means renewable energy gen-  
20 erated from an existing facility, not classified as an  
21 eligible facility, that is owned or under contract, di-  
22 rectly or indirectly, to a retail electric supplier on  
23 the date of enactment of this section.

24 “(4) INCREMENTAL HYDROPOWER.—The term  
25 ‘incremental hydropower’ means additional genera-

1       tion that is achieved from increased efficiency or ad-  
2       ditions of capacity on or after the date of enactment  
3       of this section or the effective date of the applicable  
4       State renewable portfolio standard program, at a hy-  
5       droelectric facility that was placed in service before  
6       that date.

7               “(5) INDIAN LAND.—The term ‘Indian land’  
8       means—

9               “(A) any land within the limits of any In-  
10       dian reservation, pueblo, or rancheria;

11              “(B) any land not within the limits of any  
12       Indian reservation, pueblo, or rancheria title to  
13       which was on the date of enactment of this  
14       paragraph either held by the United States for  
15       the benefit of any Indian tribe or individual or  
16       held by any Indian tribe or individual subject to  
17       restriction by the United States against alien-  
18       ation;

19              “(C) any dependent Indian community;  
20       and

21              “(D) any land conveyed to any Alaska Na-  
22       tive corporation under the Alaska Native  
23       Claims Settlement Act.

24              “(6) INDIAN TRIBE.—The term ‘Indian tribe’  
25       means any Indian tribe, band, nation, or other orga-

1 nized group or community, including any Alaskan  
2 Native village or regional or village corporation as  
3 defined in or established pursuant to the Alaska Na-  
4 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),  
5 which is recognized as eligible for the special pro-  
6 grams and services provided by the United States to  
7 Indians because of their status as Indians.

8 “(7) RENEWABLE ENERGY.—The term ‘renew-  
9 able energy’ means electric energy generated by a re-  
10 newable energy resource.

11 “(8) RENEWABLE ENERGY RESOURCE.—The  
12 term ‘renewable energy resource’ means solar (in-  
13 cluding solar water heating), wind, ocean, tidal, geo-  
14 thermal energy, biomass, landfill gas, or incremental  
15 hydropower.

16 “(9) REPOWERING OR COFIRING INCREMENT.—  
17 The term ‘repowering or cofiring increment’  
18 means—

19 “(A) the additional generation from a  
20 modification that is placed in service on or after  
21 the date of enactment of this section or the ef-  
22 fective date of the applicable State renewable  
23 portfolio standard program, to expand elec-  
24 tricity production at a facility used to generate  
25 electric energy from a renewable energy re-

1 source or to cofire biomass that was placed in  
2 service before the date of enactment of this sec-  
3 tion or the effective date of the applicable State  
4 renewable portfolio standard program; or

5 “(B) the additional generation above the  
6 average generation in the 3 years preceding the  
7 date of enactment of this section or the effec-  
8 tive date of the applicable State renewable port-  
9 folio standard program, to expand electricity  
10 production at a facility used to generate electric  
11 energy from a renewable energy resource or to  
12 cofire biomass that was placed in service before  
13 the date of enactment of this section or the ef-  
14 fective date of the applicable State renewable  
15 portfolio standard program.

16 “(10) RETAIL ELECTRIC SUPPLIER.—The term  
17 ‘retail electric supplier’ means a person that sells  
18 electric energy to electric consumers and sold not  
19 less than 1,000,000 megawatt-hours of electric en-  
20 ergy to electric consumers for purposes other than  
21 resale during the preceding calendar year; except  
22 that such term does not include the United States,  
23 a State or any political subdivision of a State, or any  
24 agency, authority, or instrumentality of any one or  
25 more of the foregoing, or a rural electric cooperative.

1           “(11) RETAIL ELECTRIC SUPPLIER’S BASE  
2       AMOUNT.—The term ‘retail electric supplier’s base  
3       amount’ means the total amount of electric energy  
4       sold by the retail electric supplier, expressed in  
5       terms of kilowatt hours, to electric customers for  
6       purposes other than resale during the most recent  
7       calendar year for which information is available, ex-  
8       cluding electric energy generated by a hydroelectric  
9       facility.

10       “(b) MINIMUM RENEWABLE GENERATION REQUIRE-  
11   MENT.—For each calendar year beginning in calendar  
12   year 2010, each retail electric supplier shall submit to the  
13   Secretary, not later than April 1 of the following calendar  
14   year, renewable energy credits in an amount equal to the  
15   required annual percentage specified in subsection (c).

16       “(c) REQUIRED ANNUAL PERCENTAGE.—For cal-  
17   endar years 2010 through 2039, the required annual per-  
18   centage of the retail electric supplier’s base amount that  
19   shall be generated from renewable energy resources, or  
20   otherwise credited towards such percentage requirement  
21   pursuant to subsection (d), shall be the percentage speci-  
22   fied in the following table:

<b>“Calendar years:</b>	<b>Required annual percentage:</b>
2010 .....	1
2011 .....	2
2012 .....	4
2013 .....	6
2014 .....	8
2015 .....	10
2016 .....	12
2017 .....	14
2018 .....	16
2019 .....	18
2020 and thereafter .....	20.

1       “(d) RENEWABLE ENERGY CREDITS.—(1) A retail  
2 electric supplier may satisfy the requirements of sub-  
3 section (b) through the submission of renewable energy  
4 credits—

5               “(A) issued to the retail electric supplier under  
6 subsection (e);

7               “(B) obtained by purchase or exchange under  
8 subsection (f) or (h); or

9               “(C) borrowed under subsection (j).

10       “(2) A renewable energy credit may be counted to-  
11 ward compliance with subsection (b) only once.

12       “(e) ISSUANCE OF CREDITS.—(1) The Secretary  
13 shall establish by rule, not later than 1 year after the date  
14 of enactment of this section, a program to verify and issue  
15 renewable energy credits, track their sale, exchange and  
16 submission, and enforce the requirements of this section.

17       “(2) An entity that generates electric energy through  
18 the use of a renewable energy resource may apply to the  
19 Secretary for the issuance of renewable energy credits.

1 The applicant must demonstrate that the electric energy  
2 will be transmitted onto the grid or, in the case of a gen-  
3 eration offset, that the electric energy offset would have  
4 otherwise been consumed on site. The application shall in-  
5 dicate—

6 “(A) the type of renewable energy resource used  
7 to produce the electricity;

8 “(B) the location where the electric energy was  
9 produced; and

10 “(C) any other information the Secretary deter-  
11 mines appropriate.

12 “(3)(A) Except as provided in subparagraphs (B),  
13 (C), and (D), the Secretary shall issue to each entity that  
14 generates electric energy one renewable energy credit for  
15 each kilowatt hour of electric energy the entity generates  
16 from the date of enactment of this section and in each  
17 subsequent calendar year through the use of a renewable  
18 energy resource at an eligible facility.

19 “(B) For incremental hydropower the renewable en-  
20 ergy credits shall be calculated based on the expected in-  
21 crease in average annual generation resulting from the ef-  
22 ficiency improvements or capacity additions. The number  
23 of credits shall be calculated using the same water flow  
24 information used to determine a historic average annual  
25 generation baseline for the hydroelectric facility and cer-

1 tified by the Secretary or the Federal Energy Regulatory  
2 Commission. The calculation of the renewable energy cred-  
3 its for incremental hydropower shall not be based on any  
4 operational changes at the hydroelectric facility not di-  
5 rectly associated with the efficiency improvements or ca-  
6 pacity additions.

7       “(C) The Secretary shall issue two renewable energy  
8 credits for each kilowatt hour of electric energy generated  
9 and supplied to the grid in that calendar year through the  
10 use of a renewable energy resource at an eligible facility  
11 located on Indian land. For purposes of this paragraph,  
12 renewable energy generated by biomass cofired with other  
13 fuels is eligible for two credits only if the biomass was  
14 grown on such land.

15       “(D) For electric energy generated by a renewable  
16 energy resource at an on-site eligible facility, used to offset  
17 part or all of the customer’s requirements for electric en-  
18 ergy, the Secretary shall issue three renewable energy  
19 credits to such customer for each kilowatt hour generated.

20       “(E) In the case of a retail electric supplier that is  
21 subject to a State renewable standard program that—

22               “(i) requires the generation of electricity from  
23       renewable energy; or



1           “(ii) provides for alternative compliance pay-  
2           ments in satisfaction of applicable State require-  
3           ments under the program,  
4           the Secretary shall issue an amount of renewable energy  
5           credits equal to the amount of renewable energy credits  
6           that the Secretary would have issued had a payment of  
7           the same amount been made to the Secretary under sub-  
8           section (j). Such renewable energy credits may be applied  
9           against the retail electric supplier’s own required annual  
10          percentage or may be transferred for use only by an asso-  
11          ciate company of the retail electric supplier.

12          “(f) ELIGIBILITY.—To be eligible for a renewable en-  
13          ergy credit, the unit of electric energy generated through  
14          the use of a renewable energy resource may be sold or  
15          may be used by the generator. If both a renewable energy  
16          resource and a non-renewable energy resource are used to  
17          generate the electric energy, the Secretary shall issue re-  
18          newable energy credits based on the proportion of the re-  
19          newable energy resources used. The Secretary shall iden-  
20          tify renewable energy credits by type and date of genera-  
21          tion.

22          “(g) CONTRACTS UNDER SECTION 210.—When a  
23          generator sells electric energy generated through the use  
24          of a renewable energy resource to a retail electric supplier  
25          under a contract subject to section 210 of this Act, the

1 retail electric supplier is treated as the generator of the  
2 electric energy for the purposes of this section or the dura-  
3 tion of the contract.

4 “(h) EXISTING FACILITY OFFSETS.—The Secretary  
5 shall issue renewable energy credits for existing facility  
6 offsets to be applied against a retail electric supplier’s re-  
7 quired annual percentage. Such credits are not tradeable  
8 and may be used only in the calendar year generation ac-  
9 tually occurs.

10 “(i) RENEWABLE ENERGY CREDIT TRADING.—A re-  
11 newable energy credit, may be sold, transferred or ex-  
12 changed by the entity to whom issued or by any other enti-  
13 ty who acquires the renewable energy credit, except for  
14 those renewable energy credits issued pursuant to sub-  
15 section (e)(3)(E). A renewable energy credit for any year  
16 that is not used to satisfy the minimum renewable genera-  
17 tion requirement of subsection (a) for that year may be  
18 carried forward for use within the next 4 years.

19 “(j) RENEWABLE ENERGY CREDIT BORROWING.—At  
20 any time before the end of calendar year 2012, a retail  
21 electric supplier that has reason to believe it will not have  
22 sufficient renewable energy credits to comply with sub-  
23 section (b) may—

24 “(1) submit a plan to the Secretary dem-  
25 onstrating that the retail electric supplier will earn

1 sufficient credits within the next 3 calendar years  
2 which, when taken into account, will enable the re-  
3 tail electric supplier to meet the requirements of  
4 subsection (b) for calendar year 2012 and the subse-  
5 quent calendar years involved; and

6 “(2) upon the approval of the plan by the Sec-  
7 retary, apply renewable energy credits that the plan  
8 demonstrates will be earned within the next 3 cal-  
9 endar years to meet the requirements of subsection  
10 (b) for each calendar year involved.

11 The retail electric supplier must repay all of the borrowed  
12 renewable energy credits by submitting an equivalent  
13 number of renewable energy credits, in addition to those  
14 otherwise required under subsection (b), by calendar year  
15 2020 or any earlier deadlines specified in the approved  
16 plan. Failure to repay the borrowed renewable energy  
17 credits shall subject the retail electric supplier to civil pen-  
18 alties under subsection (k) for violation of the require-  
19 ments of subsection (b) for each calendar year involved.

20 “(k) ENFORCEMENT.—A retail electric supplier that  
21 does not submit renewable energy credits as required  
22 under subsection (b) shall be liable for the payment of a  
23 civil penalty. That penalty shall be calculated on the basis  
24 of the number of renewable energy credits not submitted,  
25 multiplied by the lesser of 4.5 cents or 300 percent of the

1 average market value of credits for the compliance period.  
2 Any such penalty shall be due and payable without de-  
3 mand to the Secretary as provided in the regulations  
4 issued under subsection (e). On January 1 of each year  
5 following calendar year 2006, the Secretary shall adjust  
6 for inflation the penalty for such calendar year, based on  
7 the Gross Domestic Product Implicit Price Deflator.

8 “(l) CREDIT COST CAP.—The Secretary shall offer  
9 renewable energy credits for sale at the lesser of 3 cents  
10 per kilowatt-hour or 200 percent of the average market  
11 value of renewable credits for the applicable compliance  
12 period. On January 1 of each year following calendar year  
13 2006, the Secretary shall adjust for inflation the price  
14 charged per credit for such calendar year, based on the  
15 Gross Domestic Product Implicit Price Deflator.

16 “(m) INFORMATION COLLECTION.—The Secretary  
17 may collect the information necessary to verify and  
18 audit—

19 “(1) the annual electric energy generation and  
20 renewable energy generation of any entity applying  
21 for renewable energy credits under this section;

22 “(2) the validity of renewable energy credits  
23 submitted by a retail electric supplier to the Sec-  
24 retary; and

1           “(3) the quantity of electricity sales of all retail  
2       electric suppliers.

3       “(n) ENVIRONMENTAL SAVINGS CLAUSE.—Incre-  
4       mental hydropower shall be subject to all applicable envi-  
5       ronmental laws and licensing and regulatory requirements.

6       “(o) EXISTING PROGRAMS.—(1) This section does  
7       not preclude a State from imposing additional renewable  
8       energy requirements in that State, including specifying eli-  
9       gible technologies under such State requirements.

10       “(2) In the rule establishing this program, the Sec-  
11       retary shall incorporate common elements of existing re-  
12       newable energy programs, including State programs, to  
13       ensure administrative ease, market transparency and ef-  
14       fective enforcement. The Secretary shall work with the  
15       States to minimize administrative burdens and costs and  
16       to avoid duplicating compliance charges to retail electric  
17       suppliers.

18       “(p) RECOVERY OF COSTS.—An electric utility whose  
19       sales of electric energy are subject to rate regulation, in-  
20       cluding any utility whose rates are regulated by the Com-  
21       mission and any State regulated electric utility, shall not  
22       be denied the opportunity to recover the full amount of  
23       the prudently incurred incremental cost of renewable en-  
24       ergy obtained to comply with the requirements of sub-  
25       section (b) for sales to electric customers which are subject

1 to rate regulation, notwithstanding any other law, regula-  
2 tion, rule, administrative order or any agreement between  
3 the electric utility and either the Commission or a State  
4 regulatory authority. For the purpose of this subsection,  
5 the term ‘incremental cost of renewable energy’ means—

6 “(1) the additional cost to the electric utility for  
7 the purchase or generation of renewable energy to  
8 satisfy the minimum renewable generation require-  
9 ment of subsection (b), as compared to the cost of  
10 the electric energy the electric utility would generate  
11 or purchase from another source but for the require-  
12 ments of subsection (b); and

13 “(2) the cost to the electric utility for acquiring  
14 by purchase or exchange renewable energy credits to  
15 satisfy the minimum renewable generation require-  
16 ment of subsection (b).

17 For purposes of this subsection, the definitions in section  
18 3 of this Act shall apply to the terms ‘electric utility’,  
19 ‘State regulated electric utility’, ‘State agency’, ‘Commis-  
20 sion’, and ‘State regulatory authority’.

21 “(q) VOLUNTARY PARTICIPATION.—The Secretary  
22 shall encourage federally owned utilities, municipally  
23 owned utilities and rural electric cooperatives that sell  
24 electric energy to electric consumers for purposes other  
25 than resale to participate in the renewable portfolio stand-

1 and program. A municipally owned utility or rural electric  
2 cooperative that owns or has under contract a facility for  
3 the generation of electric energy from a renewable energy  
4 resource may not sell or trade renewable energy credits  
5 generated by such resource unless it participates in the  
6 renewable portfolio standard program under the same  
7 terms and conditions as retail electric suppliers.

8 “(r) PROGRAM REVIEW.—The Secretary shall enter  
9 into a contract with the National Academy of Sciences to  
10 conduct a comprehensive evaluation of all aspects of the  
11 Renewable Portfolio Standard program, within 8 years of  
12 enactment of this section. The study shall include an eval-  
13 uation of—

14 “(1) the effectiveness of the program in increas-  
15 ing the market penetration and lower the cost of the  
16 eligible renewable technologies;

17 “(2) the opportunities for any additional tech-  
18 nologies and sources of renewable energy emerging  
19 since enactment of this section;

20 “(3) the impact on the regional diversity and  
21 reliability of supply sources, including the power  
22 quality benefits of distributed generation;

23 “(4) the regional resource development relative  
24 to renewable potential and reasons for any under in-  
25 vestment in renewable resources; and

1           “(5) the net cost/benefit of the renewable port-  
2       folio standard to the national and State economies,  
3       including retail power costs, economic development  
4       benefits of investment, avoided costs related to envi-  
5       ronmental and congestion mitigation investments  
6       that would otherwise have been required, impact on  
7       natural gas demand and price, effectiveness of green  
8       marketing programs at reducing the cost of renew-  
9       able resources.

10   The Secretary shall transmit the results of the evaluation  
11   and any recommendations for modifications and improve-  
12   ments to the program to Congress not later than January  
13   1, 2016.

14       “(s) PROGRAM IMPROVEMENTS.—Using the results  
15   of the evaluation under subsection (p), the Secretary shall  
16   by rule, within 6 months of the completion of the evalua-  
17   tion, make such modifications to the program as may be  
18   necessary to improve the efficiency of the program and  
19   maximize the use of renewable energy under the program.

20       “(t) STATE RENEWABLE ENERGY ACCOUNT PRO-  
21   GRAM.—(1) The Secretary shall establish, not later than  
22   December 31, 2009, a State renewable energy account  
23   program.

24       “(2) All money collected by the Secretary from the  
25   sale of renewable energy credits shall be deposited into the



1 State renewable energy account established pursuant to  
2 this subsection. The State renewable energy account shall  
3 be held by the Secretary and shall not be transferred to  
4 the Secretary of the Treasury.

5 “(3) Proceeds deposited in the State renewable en-  
6 ergy account shall be used by the Secretary, subject to  
7 annual appropriations, for a program to provide grants to  
8 the State agency responsible for developing State energy  
9 conservation plans under section 363 of the Energy Policy  
10 and Conservation Act (42 U.S.C. 6322) for the purposes  
11 of promoting renewable energy production and providing  
12 energy assistance and weatherization services to low-in-  
13 come consumers.

14 “(4) The Secretary may issue guidelines and criteria  
15 for grants awarded under this subsection. At least 75 per-  
16 cent of the funds provided to each State shall be used for  
17 promoting renewable energy production. The funds shall  
18 be allocated to the States on the basis of retail electric  
19 sales subject to the Renewable Portfolio Standard under  
20 this section or through voluntary participation. To the ex-  
21 tent Federal credits have been issued without payment due  
22 to reciprocity with State programs under subsection  
23 (d)(3)(E), deductions shall be made from the relevant  
24 State’s allocation. State energy offices receiving grants

1 under this section shall maintain such records and evi-  
 2 dence of compliance as the Secretary may require.”.

3 (b) TABLE OF CONTENTS.—The table of contents for  
 4 such title is amended by adding the following new item  
 5 at the end:

“Sec. 610. Federal renewable portfolio standard.”.

6 (c) SUNSET.—Section 610 of such title and the item  
 7 relating to such section 610 in the table of contents for  
 8 such title are each repealed as of December 31, 2039.

9 **TITLE IV—APOLLO PROJECT**  
 10 **FOR CONVERSION OF MOTOR**  
 11 **VEHICLES TO ALTERNATIVE**  
 12 **FUELS**

13 **SEC. 401. SENSE OF SENATE ON CONVERSION OF MOTOR**  
 14 **VEHICLES TO ALTERNATIVE FUELS AND EN-**  
 15 **ERGY INDEPENDENCE.**

16 It is the sense of the Senate that—

17 (1) not later than 20 years after the date of en-  
 18 actment of this Act, not less than 85 percent of new  
 19 motor vehicles sold in the United States should run  
 20 primarily on fuels other than petroleum-based fuels;  
 21 and

22 (2) not later than calendar year 2030, the  
 23 United States should be energy independent.

1 **SEC. 402. CONSUMER TAX CREDITS FOR ADVANCED VEHI-**  
 2 **CLES.**

3 (a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE  
 4 CREDIT.—

5 (1) IN GENERAL.—Subpart B of part IV of  
 6 subchapter A of chapter 1 of the Internal Revenue  
 7 Code of 1986 (relating to other credits) is amended  
 8 by adding at the end the following new section:

9 **“SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE**  
 10 **CREDIT.**

11 “(a) ALLOWANCE OF CREDIT.—

12 “(1) IN GENERAL.—There shall be allowed as a  
 13 credit against the tax imposed by this chapter for  
 14 the taxable year an amount equal to the applicable  
 15 amount with respect to each new qualified plug-in  
 16 electric drive motor vehicle placed in service by the  
 17 taxpayer during the taxable year.

18 “(2) APPLICABLE AMOUNT.—For purposes of  
 19 paragraph (1), the applicable amount is sum of—

20 “(A) \$2,500, plus

21 “(B) \$400 for each kilowatt hour of trac-  
 22 tion battery capacity in excess of 4 kilowatt  
 23 hours.

24 “(b) LIMITATION.—The amount of the credit allowed  
 25 under subsection (a) by reason of subsection (a)(2) shall  
 26 not exceed \$7,500.

1       “(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE  
2 MOTOR VEHICLE.—For purposes of this section, the term  
3 ‘new qualified plug-in electric drive motor vehicle’ means  
4 motor vehicle—

5           “(1) which draws propulsion using a traction  
6 battery with at least 4 kilowatt hours of capacity,

7           “(2) which uses an offboard source of energy to  
8 recharge such battery,

9           “(3) which, in the case of a passenger vehicle  
10 or light truck which has a gross vehicle weight rat-  
11 ing of not more than 8,500 pounds, has received a  
12 certificate of conformity under the Clean Air Act  
13 and meets or exceeds the equivalent qualifying Cali-  
14 fornia low emission vehicle standard under section  
15 243(e)(2) of the Clean Air Act for that make and  
16 model year in the case of a vehicle—

17           “(A) having a gross vehicle weight rating  
18 of 6,000 pounds or less, the Bin 5 Tier II emis-  
19 sion standard established in regulations pre-  
20 scribed by the Administrator of the Environ-  
21 mental Protection Agency under section 202(i)  
22 of the Clean Air Act for that make and model  
23 year vehicle, and

24           “(B) having a gross vehicle weight rating  
25 of more than 6,000 pounds but not more than

1           8,500 pounds, the Bin 8 Tier II emission  
2           standard which is so established,

3           “(4) the original use of which commences with  
4           the taxpayer,

5           “(5) which is acquired for use or lease by the  
6           taxpayer and not for resale, and

7           “(6) which is made by a manufacturer.

8           “(d) APPLICATION WITH OTHER CREDITS.—

9           “(1) BUSINESS CREDIT TREATED AS PART OF  
10          GENERAL BUSINESS CREDIT.—So much of the credit  
11          which would be allowed under subsection (a) for any  
12          taxable year (determined without regard to this sub-  
13          section) that is attributable to property of a char-  
14          acter subject to an allowance for depreciation shall  
15          be treated as a credit listed in section 38(b) for such  
16          taxable year (and not allowed under subsection (a)).

17          “(2) PERSONAL CREDIT.—The credit allowed  
18          under subsection (a) (after the application of para-  
19          graph (1)) for any taxable year shall not exceed the  
20          excess (if any) of—

21                 “(A) the regular tax liability (as defined in  
22                 section 26(b)) reduced by the sum of the credits  
23                 allowable under subpart A and sections 27, 30,  
24                 30B, and 30C, over

1                   “(B) the tentative minimum tax for the  
2                   taxable year.

3           “(e) OTHER DEFINITIONS AND SPECIAL RULES.—  
4 For purposes of this section—

5                   “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
6                   cle’ has the meaning given such term by section  
7                   30(c)(2).

8                   “(2) OTHER TERMS.—The terms ‘passenger  
9                   automobile’, ‘light truck’, and ‘manufacturer’ have  
10                  the meanings given such terms in regulations pre-  
11                  scribed by the Administrator of the Environmental  
12                  Protection Agency for purposes of the administra-  
13                  tion of title II of the Clean Air Act (42 U.S.C.  
14                  7521et seq.).

15                  “(3) TRACTION BATTERY CAPACITY.—Traction  
16                  battery capacity shall be measured in kilowatt hours  
17                  from a 100 percent state of charge to a zero percent  
18                  state of charge.

19                  “(4) REDUCTION IN BASIS.—For purposes of  
20                  this subtitle, the basis of any property for which a  
21                  credit is allowable under subsection (a) shall be re-  
22                  duced by the amount of such credit so allowed.

23                  “(5) NO DOUBLE BENEFIT.—The amount of  
24                  any deduction or other credit allowable under this  
25                  chapter for a new qualified plug-in electric drive

1 motor vehicle shall be reduced by the amount of  
2 credit allowed under subsection (a) for such vehicle  
3 for the taxable year.

4 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-  
5 TY.—In the case of a vehicle the use of which is de-  
6 scribed in paragraph (3) or (4) of section 50(b) and  
7 which is not subject to a lease, the person who sold  
8 such vehicle to the person or entity using such vehi-  
9 cle shall be treated as the taxpayer that placed such  
10 vehicle in service, but only if such person clearly dis-  
11 closes to such person or entity in a document the  
12 amount of any credit allowable under subsection (a)  
13 with respect to such vehicle (determined without re-  
14 gard to subsection (b)(2)).

15 “(7) PROPERTY USED OUTSIDE UNITED  
16 STATES, ETC., NOT QUALIFIED.—No credit shall be  
17 allowable under subsection (a) with respect to any  
18 property referred to in section 50(b)(1) or with re-  
19 spect to the portion of the cost of any property  
20 taken into account under section 179.

21 “(8) RECAPTURE.—The Secretary shall, by reg-  
22 ulations, provide for recapturing the benefit of any  
23 credit allowable under subsection (a) with respect to  
24 any property which ceases to be property eligible for  
25 such credit (including recapture in the case of a

1        lease period of less than the economic life of a vehi-  
 2        cle).

3            “(9) ELECTION TO NOT TAKE CREDIT.—No  
 4        credit shall be allowed under subsection (a) for any  
 5        vehicle if the taxpayer elects not to have this section  
 6        apply to such vehicle.

7            “(10) INTERACTION WITH AIR QUALITY AND  
 8        MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-  
 9        erwise provided in this section, a motor vehicle shall  
 10       not be considered eligible for a credit under this sec-  
 11       tion unless such vehicle is in compliance with—

12            “(A) the applicable provisions of the Clean  
 13        Air Act for the applicable make and model year  
 14        of the vehicle (or applicable air quality provi-  
 15        sions of State law in the case of a State which  
 16        has adopted such provision under a waiver  
 17        under section 209(b) of the Clean Air Act), and

18            “(B) the motor vehicle safety provisions of  
 19        sections 30101 through 30169 of title 49,  
 20        United States Code.

21        “(f) REGULATIONS.—

22            “(1) IN GENERAL.—Except as provided in para-  
 23        graph (2), the Secretary shall promulgate such regu-  
 24        lations as necessary to carry out the provisions of  
 25        this section.



1           “(2) COORDINATION IN PRESCRIPTION OF CER-  
2           TAIN REGULATIONS.—The Secretary of the Treas-  
3           ury, in coordination with the Secretary of Transpor-  
4           tation and the Administrator of the Environmental  
5           Protection Agency, shall prescribe such regulations  
6           as necessary to determine whether a motor vehicle  
7           meets the requirements to be eligible for a credit  
8           under this section.

9           “(g) TERMINATION.—This section shall not apply to  
10          property purchased after December 31, 2012.”.

11           (2) COORDINATION WITH OTHER MOTOR VEHI-  
12          CLE CREDITS.—

13                   (A) NEW QUALIFIED FUEL CELL MOTOR  
14           VEHICLES.—Paragraph (3) of section 30B(b) of  
15           such Code is amended by adding at the end the  
16           following new flush sentence: “Such term shall  
17           not include any motor vehicle which is a new  
18           qualified plug-in electric drive motor vehicle (as  
19           defined by section 30D(c)).”.

20                   (B) NEW QUALIFIED HYBRID MOTOR VEHI-  
21           CLES.—Paragraph (3) of section 30B(d) of  
22           such Code is amended by adding at the end the  
23           following new flush sentence:

1 “Such term shall not include any motor vehicle which is  
2 a new qualified plug-in electric drive motor vehicle (as de-  
3 fined by section 30D(c)).”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 38(b) of such Code is amended  
6 by striking “plus” at the end of paragraph  
7 (32), by striking the period at the end of para-  
8 graph (33) and inserting “, plus”, and by add-  
9 ing at the end the following new paragraph:

10 “(34) the portion of the new qualified plug-in  
11 electric drive motor vehicle credit to which section  
12 30D(d)(1) applies.”.

13 (B) Section 55(c)(3) of such Code is  
14 amended by inserting “30D(d)(2),” after  
15 “30C(d)(2),”.

16 (C) Section 1016(a) of such Code is  
17 amended by striking “and” at the end of para-  
18 graph (35), by striking the period at the end of  
19 paragraph (36) and inserting “, and”, and by  
20 adding at the end the following new paragraph:

21 “(37) to the extent provided in section  
22 30D(e)(4).”.

23 (D) Section 6501(m) of such Code is  
24 amended by inserting “30D(e)(9)” after  
25 “30C(e)(5)”.

1                   (E) The table of sections for subpart B of  
 2                   part IV of subchapter A of chapter 1 is amend-  
 3                   ed by adding at the end the following new item:

“Sec. 30D. Plug-in electric drive motor vehicle credit.”.

4                   (b) CONVERSION KITS.—

5                   (1) IN GENERAL.—Section 30B of such Code  
 6                   (relating to alternative motor vehicle credit) is  
 7                   amended by redesignating subsections (i) and (j) as  
 8                   subsections (j) and (k), respectively, and by inserting  
 9                   after subsection (h) the following new subsection:

10                  “(i) PLUG-IN CONVERSION CREDIT.—

11                   “(1) IN GENERAL.—For purposes of subsection  
 12                   (a), the plug-in conversion credit determined under  
 13                   this subsection with respect to any motor vehicle  
 14                   which is converted to a qualified plug-in electric  
 15                   drive motor vehicle is an amount equal to 20 percent  
 16                   of the cost of the plug-in traction battery module in-  
 17                   stalled in such vehicle as part of such conversion.

18                   “(2) LIMITATIONS.—The amount of the credit  
 19                   allowed under this subsection shall not exceed  
 20                   \$2,500 with respect to the conversion of any motor  
 21                   vehicle.

22                   “(3) DEFINITIONS AND SPECIAL RULES.—For  
 23                   purposes of this subsection—

24                   “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE  
 25                   MOTOR VEHICLE.—The term ‘qualified plug-in

1 electric drive motor vehicle’ means any new  
2 qualified plug-in electric drive motor vehicle (as  
3 defined in section 30D(c), determined without  
4 regard to paragraphs (4) and (6) thereof).

5 “(B) PLUG-IN TRACTION BATTERY MOD-  
6 ULE.—The term ‘plug-in traction battery mod-  
7 ule’ means an electro-chemical energy storage  
8 device which—

9 “(i) has a traction battery capacity of  
10 not less than 2.5 kilowatt hours,

11 “(ii) is equipped with an electrical  
12 plug by means of which it can be energized  
13 and recharged when plugged into an exter-  
14 nal source of electric power,

15 “(iii) consists of a standardized con-  
16 figuration and is mass produced,

17 “(iv) has been tested and approved by  
18 the National Highway Transportation  
19 Safety Administration as compliant with  
20 applicable motor vehicle and motor vehicle  
21 equipment safety standards when installed  
22 by a mechanic with standardized training  
23 in protocols established by the battery  
24 manufacturer as part of a nationwide dis-  
25 tribution program, and

1 “(v) is certified by a battery manufac-  
2 turer as meeting the requirements of  
3 clauses (i) through (iv).

4 “(C) CREDIT ALLOWED TO LESSOR OF  
5 BATTERY MODULE.—In the case of a plug-in  
6 traction battery module which is leased to the  
7 taxpayer, the credit allowed under this sub-  
8 section shall be allowed to the lessor of the  
9 plug-in traction battery module.

10 “(D) CREDIT ALLOWED IN ADDITION TO  
11 OTHER CREDITS.—The credit allowed under  
12 this subsection shall be allowed with respect to  
13 a motor vehicle notwithstanding whether a cred-  
14 it has been allowed with respect to such motor  
15 vehicle under this section (other than this sub-  
16 section) in any preceding taxable year.

17 “(4) TERMINATION.—This subsection shall not  
18 apply to conversions made after December 31,  
19 2012.”.

20 (2) CREDIT TREATED AS PART OF ALTER-  
21 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)  
22 of such Code is amended by striking “and” at the  
23 end of paragraph (3), by striking the period at the  
24 end of paragraph (4) and inserting “, and”, and by  
25 adding at the end the following new paragraph:

1 “(5) the plug-in conversion credit determined  
2 under subsection (i).”.

3 (3) NO RECAPTURE FOR VEHICLES CONVERTED  
4 TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VE-  
5 HICLES.—Paragraph (8) of section 30B(h) of such  
6 Code is amended by adding at the end the following:  
7 “, except that no benefit shall be recaptured if such  
8 property ceases to be eligible for such credit by rea-  
9 son of conversion to a qualified plug-in electric drive  
10 motor vehicle.”

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to property placed in service after  
13 December 31, 2008, in taxable years beginning after such  
14 date.

15 **SEC. 403. RESEARCH AND DEVELOPMENT PROGRAM FOR**  
16 **ALTERNATIVE FUEL VEHICLE TECH-**  
17 **NOLOGIES.**

18 (a) PURPOSES.—The purposes of this section are—

19 (1) to enable and promote, in partnership with  
20 industry, comprehensive development, demonstra-  
21 tion, and commercialization of a wide range of alter-  
22 native fuel components, systems, and vehicles using  
23 diverse transportation technologies;

24 (2) to make critical public investments to help  
25 private industry, institutions of higher education,

1 National Laboratories, and research institutions to  
2 expand innovation, industrial growth, and jobs in the  
3 United States;

4 (3) to expand the availability of the existing al-  
5 ternative fuel infrastructure for fueling light-duty  
6 transportation vehicles and other on-road and  
7 nonroad vehicles that are using petroleum and are  
8 mobile sources of emissions, with the goals of—

9 (A) enhancing the energy security of the  
10 United States;

11 (B) reducing dependence on imported oil;  
12 and

13 (C) reducing emissions through the expan-  
14 sion of alternative fuel supported mobility;

15 (4) to accelerate the widespread commercializa-  
16 tion of alternative fuel vehicle technology into all  
17 sizes and applications of vehicles, including commer-  
18 cialization of alternative fuel vehicles; and

19 (5) to improve the energy efficiency of and re-  
20 duce the petroleum use in surface transportation.

21 (b) PROGRAM.—The Secretary of Energy shall con-  
22 duct a program of research, development, demonstration,  
23 and commercial application for alternative fuel transpor-  
24 tation technology, including—

1           (1) high capacity, high-efficiency storage de-  
2       vices;

3           (2) high-efficiency on-board and off-board alter-  
4       native fuel components;

5           (3) high-powered alternative fuel systems for  
6       passenger and commercial vehicles and for nonroad  
7       equipment;

8           (4) control system development and power train  
9       development and integration for alternative fuel ve-  
10      hicles, including—

11           (A) development of efficient cooling sys-  
12      tems;

13           (B) analysis and development of control  
14      systems that minimize the emissions profile  
15      when clean diesel engines are part of an alter-  
16      native fuel system; and

17           (C) development of different control sys-  
18      tems that optimize for different goals, includ-  
19      ing—

20                   (i) storage life;

21                   (ii) reduction of petroleum consump-  
22      tion; and

23                   (iii) green house gas reduction;

24           (5) nanomaterial technology applied to both al-  
25      ternative fuel systems;



1           (6) large-scale demonstrations, testing, and  
2           evaluation of alternative fuel vehicles in different ap-  
3           plications with different storage and control systems,  
4           including—

5                   (A) military applications;

6                   (B) mass market passenger and light-duty  
7           truck applications;

8                   (C) private fleet applications; and

9                   (D) medium- and heavy-duty applications;

10          (7) development, in consultation with the Ad-  
11          ministrators of the Environmental Protection Agency,  
12          of procedures for testing and certification of criteria  
13          pollutants, fuel economy, and petroleum use for  
14          light-, medium-, and heavy-duty vehicle applications,  
15          including consideration of—

16                   (A) the vehicle and fuel as a system, not  
17          just an engine; and

18                   (B) nightly off-board charging; and

19          (8) advancement of alternative fuel transpor-  
20          tation technologies in mobile source applications  
21          by—

22                   (A) improvement in alternative fuel tech-  
23          nologies; and

1 (B) working with industry and the Admin-  
2 istrator of the Environmental Protection Agen-  
3 cy to—

4 (i) understand and inventory markets;  
5 and

6 (ii) identify and implement methods of  
7 removing barriers for existing and emerg-  
8 ing applications.

9 (c) FUNDING.—

10 (1) IN GENERAL.—Out of any funds in the  
11 Treasury not otherwise appropriated, the Secretary  
12 of the Treasury shall transfer to the Secretary of  
13 Energy to carry out this section, to remain available  
14 until expended—

15 (A) on October 1, 2008, and each October  
16 1 thereafter through October 1, 2012,  
17 \$1,000,000,000; and

18 (B) on October 1, 2013, and each October  
19 1 thereafter through October 1, 2017,  
20 \$500,000,000.

21 (2) RECEIPT AND ACCEPTANCE.—The Sec-  
22 retary of Energy shall be entitled to receive, shall  
23 accept, and shall use to carry out this section the  
24 funds transferred under paragraph (1), without fur-  
25 ther appropriation.

1 **SEC. 404. FEDERAL FLEET REQUIREMENTS.**

2 (a) DEFINITION OF ADVANCED ALTERNATIVE  
3 FUELED VEHICLE.—Section 301 of the Energy Policy Act  
4 of 1992 (42 U.S.C. 13211) is amended by inserting after  
5 paragraph (14) the following:

6 “(15) ADVANCED ALTERNATIVE FUELED VEHI-  
7 CLE.—

8 “(A) IN GENERAL.—The term ‘advanced  
9 alternative fueled vehicle’ means an alternative  
10 fueled vehicle that is powered primarily by a  
11 nonpetroleum-based fuel.

12 “(B) EXCLUSION.—The term ‘advanced al-  
13 ternative fueled vehicle’ does not include a flex  
14 fuel vehicle.”.

15 (b) ADVANCED ALTERNATIVE FUEL VEHICLES.—  
16 Section 303(b) of the Energy Policy Act of 1992 (42  
17 U.S.C. 13212(b)) is amended—

18 (1) by inserting after paragraph (3) the fol-  
19 lowing:

20 “(4) ADVANCED ALTERNATIVE FUEL VEHICLES.—  
21 Of all vehicles purchased by the Federal Government for  
22 a model year, at least the following percentage of the vehi-  
23 cles shall be advanced alternative fueled vehicles:

24 “(A) 10 percent for each of fiscal years 2013  
25 and 2014.

1           “(B) 20 percent for each of fiscal years 2015  
2           and 2016.

3           “(C) 30 percent for each of fiscal years 2017  
4           and 2018.

5           “(D) 40 percent for each of fiscal years 2019  
6           and 2020.

7           “(E) 50 percent for each of fiscal years 2021  
8           and 2022.

9           “(F) 60 percent for each of fiscal years 2023  
10          and 2024.

11          “(G) 70 percent for each of fiscal years 2025  
12          and 2026.

13          “(H) 80 percent for each of fiscal years 2027  
14          and 2028.

15          “(I) 90 percent for fiscal year 2029 and each  
16          fiscal year thereafter.”; and

17          (2) in paragraph (2), by inserting “or (4)”  
18          after “paragraph (1)”.

1 **TITLE V—ENHANCED CON-**  
 2 **SERVATION AND EFFICIENCY**  
 3 **Subtitle A—Enhancing Efficiency**  
 4 **of Conventional Vehicles**

5 **PART I—FUEL ECONOMY STANDARDS**

6 **SEC. 501. INCREASE CORPORATE FUEL ECONOMY STAND-**  
 7 **ARDS.**

8 Section 32902 of title 49, United States Code, is  
 9 amended by striking “for model year 2020 of at least 35  
 10 miles per gallon” and inserting “for model year 2015 of  
 11 at least 35 miles per gallon and for model year 2030 of  
 12 at least 50 miles per gallon”.

13 **SEC. 502. MORE REALISTIC DETERMINATION OF FUEL EFFI-**  
 14 **CIENCY STANDARDS.**

15 Section 32902 of title 49, United States Code, is  
 16 amended by adding at the end the following:

17 “(1) CALCULATION OF MAXIMUM FEASIBLE FUEL  
 18 ECONOMY STANDARDS.—

19 “(1) IN GENERAL.—The Secretary shall deter-  
 20 mine the maximum feasible fuel economy level  
 21 achievable for passenger automobiles and non-pas-  
 22 senger automobiles for each model year for purposes  
 23 of this section based on a projected gasoline price  
 24 that is not less than the applicable high gasoline

1 price projection issued by the Energy Information  
2 Administration.

3 “(2) APPLICABLE HIGH GASOLINE PRICE PRO-  
4 JECTION DEFINED.—In this subsection the term ‘ap-  
5 plicable high gasoline price projection’ means the  
6 greatest of a range of estimated gasoline prices that  
7 the Energy Information Administration issues as  
8 part of its annual energy outlook, short-term energy  
9 outlook, or similar analyses, for the year or years  
10 corresponding to the model year or model years for  
11 which the Secretary is prescribing an average fuel  
12 economy standard under this section, and for the  
13 range of years considered by the Secretary in deter-  
14 mining the costs and benefits associated with such  
15 standard.”.

16 **SEC. 503. FUEL EFFICIENCY STANDARDS REVISIONS.**

17 (a) WEIGHT.—Section 32901(a)(3) of title 49,  
18 United States Code, is amended by striking “rated at—  
19 ” and all that follows through the period at the end and  
20 inserting “rated at not more than 10,000 pounds gross  
21 vehicle weight.”.

22 (b) FUEL ECONOMY INFORMATION.—Section  
23 32908(a) of title 49, United States Code, is amended, by  
24 striking 8,500 and inserting “10,000”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to model year 2009 and each sub-  
3 sequent model year.

4 **SEC. 504. AUTOMOBILE SAFETY.**

5 Nothing in this Act shall be construed to limit, con-  
6 strain, supercede, or expand the authority of the Secretary  
7 of Transportation to prescribe motor vehicle safety stand-  
8 ards to reduce traffic accidents and deaths and injuries  
9 resulting from traffic accidents conferred by chapter 301  
10 of title 49, United States Code.

11 **PART II—OTHER PROVISIONS**

12 **SEC. 511. LIGHTWEIGHT MATERIALS RESEARCH AND DE-**  
13 **VELOPMENT.**

14 (a) IN GENERAL.—As soon as practicable after the  
15 date of enactment of this Act, the Secretary shall establish  
16 a research and development program on lightweight mate-  
17 rials and composites and other innovations to increase the  
18 fuel efficiency of motor vehicles, including materials, com-  
19 posites, and innovation that will permit—

20 (1) the weight of vehicles to be reduced to im-  
21 prove fuel efficiency without compromising pas-  
22 senger safety; and

23 (2) the cost of lightweight materials (such as 18  
24 steel alloys and carbon fibers) required for the con-  
25 struction of lighter-weight vehicles to be reduced.

1 (b) FUNDING.—

2 (1) IN GENERAL.—On October 1, 2008, and on  
3 each October 1 thereafter through October 1, 2017,  
4 out of any funds in the Treasury not otherwise ap-  
5 propriated, the Secretary of the Treasury shall  
6 transfer to the Secretary to carry out this subsection  
7 \$500,000,000, to remain available until expended.

8 (2) RECEIPT AND ACCEPTANCE.—The Sec-  
9 retary shall be entitled to receive, shall accept, and  
10 shall use to carry out this subsection the funds  
11 transferred under paragraph (1), without further ap-  
12 propriation.

13 **SEC. 512. FEDERAL GOVERNMENT GASOLINE CONSUMP-**  
14 **TION.**

15 (a) IN GENERAL.—Section 303(b) of the Energy Pol-  
16 icy Act of 1992 (42 U.S.C. 13212(b)) is amended by add-  
17 ing at the end the following:

18 “(5) GASOLINE CONSUMPTION.—The Secretary  
19 shall promulgate regulations for Federal fleets sub-  
20 ject to this title requiring that, not later than fiscal  
21 year 2010, each Federal agency achieve at least a 5-  
22 percent reduction in petroleum consumption, as cal-  
23 culated from the baseline established by the Sec-  
24 retary for fiscal year 2008.”.



1 (b) ADDITIONAL GASOLINE REDUCTION MEAS-  
2 URES.—

3 (1) STUDY.—The Comptroller General of the  
4 United States shall conduct a study to determine  
5 whether additional gasoline reduction measures by  
6 Federal departments, agencies, and Congress are  
7 technically feasible.

8 (2) REPORT.—Not later than 180 days after  
9 the date of enactment of this Act, the Comptroller  
10 General shall submit to Congress a report that de-  
11 scribes the results of the study, including any rec-  
12 ommendations.

13 **SEC. 513. CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.**

14 (a) IN GENERAL.—Subpart B of part IV of sub-  
15 chapter A of chapter 1 of the Internal Revenue Code of  
16 1986, as amended by this Act, is amended by adding at  
17 the end the following new section:

18 **“SEC. 30E. FUEL-EFFICIENT MOTOR VEHICLE CREDIT.**

19 **“(a) ALLOWANCE OF CREDIT.—**

20 **“(1) IN GENERAL.—**There shall be allowed as a  
21 credit against the tax imposed by this chapter for  
22 the taxable year an amount equal to the amount de-  
23 termined under paragraph (2) with respect to any  
24 new fuel-efficient motor vehicle placed in service by  
25 the taxpayer during the taxable year.

1           “(2) CREDIT AMOUNT.—The amount deter-  
2 mined under this paragraph shall be—

3           “(A) \$500, if the new fuel-efficient motor  
4 vehicle achieves a city fuel economy which is 42  
5 miles per gallon or less;

6           “(B) \$1,000, if the new fuel-efficient  
7 motor vehicle achieves a city fuel economy  
8 which is greater than 42 miles per gallon but  
9 less than 45.6 miles per gallon;

10          “(C) \$1,500, if the new fuel-efficient motor  
11 vehicle achieves a city fuel economy which is  
12 greater than 45.5 miles per gallon but less than  
13 49.1 miles per gallon;

14          “(D) \$2,000, if the new fuel-efficient  
15 motor vehicle achieves a city fuel economy  
16 which is greater than 49 miles per gallon but  
17 less than 52.6 miles per gallon; and

18          “(E) \$2,500, if the new fuel-efficient  
19 motor vehicle achieves a city fuel economy  
20 which is greater than 52.5 miles per gallon.

21          “(b) NEW FUEL-EFFICIENT MOTOR VEHICLE.—For  
22 purposes of this section, the term ‘new fuel-efficient motor  
23 vehicle’ means any motor vehicle—

24           “(1) which has a gross vehicle weight rating of  
25 not more than 8,500 pounds,

1           “(2) which achieves a city fuel economy of at  
2           least 38.5 miles per gallon,

3           “(3) the original use of which commences with  
4           the taxpayer,

5           “(4) which is acquired by the taxpayer for use  
6           or lease, but not for resale, and

7           “(5) which is made by a manufacturer.

8           “(c) OTHER DEFINITIONS AND SPECIAL RULES.—  
9           For purposes of this section—

10           “(1) CITY FUEL ECONOMY; MANUFACTURER.—  
11           The terms ‘city fuel economy’ and ‘manufacturer’  
12           have the meanings given such terms under section  
13           30B(h).

14           “(2) BASIS REDUCTION.—The basis of any  
15           property for which a credit is allowable under sub-  
16           section (a) shall be reduced by the amount of such  
17           credit.

18           “(3) RECAPTURE; PROPERTY USED OUTSIDE  
19           THE UNITED STATES; ELECTION NOT TO TAKE  
20           CREDIT.—For purposes of this section, rules similar  
21           to the rules of paragraphs (2), (3), and (4) of sec-  
22           tion 30(d) shall apply.

23           “(4) DENIAL OF DOUBLE BENEFIT.—No credit  
24           shall be allowed under this section with respect to  
25           any new fuel-efficient motor vehicle if a credit is al-

1       lowed with respect to such vehicle under section 30,  
2       30B, or 30D.

3       “(d) APPLICATION WITH OTHER CREDITS.—

4               “(1) BUSINESS CREDIT TREATED AS PART OF  
5       GENERAL BUSINESS CREDIT.—So much of the credit  
6       which would be allowed under subsection (a) for any  
7       taxable year (determined without regard to this sub-  
8       section) that is attributable to property of a char-  
9       acter subject to an allowance for depreciation shall  
10      be treated as a credit listed in section 38(b) for such  
11      taxable year (and not allowed under subsection (a)).

12              “(2) PERSONAL CREDIT.—The credit allowed  
13      under subsection (a) (after the application of para-  
14      graph (1)) for any taxable year shall not exceed the  
15      excess (if any) of—

16                      “(A) the regular tax liability (as defined in  
17                      section 26(b)) reduced by the sum of the credits  
18                      allowable under subpart A and sections 27, 30,  
19                      30B, and 30D, over

20                      “(B) the tentative minimum tax for the  
21                      taxable year.

22              “(e) TERMINATION.—This section shall not apply to  
23      property placed in service after December 31, 2010.”.

24              (b) CONFORMING AMENDMENTS.—

1           (1) Section 38(b) of the Internal Revenue Code  
 2           of 1986, as amended by this Act, is amended by  
 3           striking “plus” at the end of paragraph (33), by  
 4           striking the period at the end of paragraph (34) and  
 5           inserting “, plus”, and by adding at the end the fol-  
 6           lowing new paragraph:

7           “(35) the portion of the new fuel-efficient motor  
 8           vehicle credit to which section 30E(d)(1) applies.”.

9           (2) Section 1016(a) of such Code, as amended  
 10          by this Act, is amended by striking “and” at the end  
 11          of paragraph (36), by striking the period at the end  
 12          of paragraph (37) and inserting “, and”, and by  
 13          adding at the end the following new paragraph:

14          “(38) to the extent provided in section  
 15          30E(c)(2).”.

16          (3) Section 6501(m) of such Code, as amended  
 17          by this Act, is amended by inserting “30E(c)(3),”  
 18          after “30D(e)(9),”.

19          (c) CLERICAL AMENDMENT.—The table of sections  
 20          for subpart B of part IV of subchapter A of chapter 1  
 21          of the Internal Revenue Code of 1986 is amended by add-  
 22          ing at the end the following new item:

“Sec. 30E. Fuel-efficient motor vehicle credit.”.

23          (d) EFFECTIVE DATE.—The amendments made by  
 24          this section shall apply to property placed in service after  
 25          the date of the enactment of this Act.

1 **SEC. 514. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
2 **REDUCTION UNITS AND ADVANCED INSULA-**  
3 **TION.**

4 (a) IN GENERAL.—Section 4053 of the Internal Rev-  
5 enue Code of 1986 (relating to exemptions) is amended  
6 by adding at the end the following new paragraphs:

7 “(9) IDLING REDUCTION DEVICE.—Any device  
8 or system of devices which—

9 “(A) is designed to provide to a vehicle  
10 those services (such as heat, air conditioning, or  
11 electricity) that would otherwise require the op-  
12 eration of the main drive engine while the vehi-  
13 cle is temporarily parked or remains stationary  
14 using one or more devices affixed to a tractor,  
15 and

16 “(B) is determined by the Administrator of  
17 the Environmental Protection Agency, in con-  
18 sultation with the Secretary of Energy and the  
19 Secretary of Transportation, to reduce idling of  
20 such vehicle at a motor vehicle rest stop or  
21 other location where such vehicles are tempo-  
22 rarily parked or remain stationary.

23 “(10) ADVANCED INSULATION.—Any insulation  
24 that has an R value of not less than R35 per inch.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to sales or installations after the  
 3 date of the enactment of this Act.

4 **SEC. 515. IDLING REDUCTION TAX CREDIT.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
 6 chapter A of chapter 1 of the Internal Revenue Code of  
 7 1986 (relating to business-related credits) is amended by  
 8 adding at the end the following new section:

9 **“SEC. 45Q. IDLING REDUCTION CREDIT.**

10 “(a) GENERAL RULE.—For purposes of section 38,  
 11 the idling reduction tax credit determined under this sec-  
 12 tion for the taxable year is an amount equal to 25 percent  
 13 of the amount paid or incurred for each qualifying idling  
 14 reduction device placed in service by the taxpayer during  
 15 the taxable year.

16 “(b) LIMITATION.—The maximum amount allowed as  
 17 a credit under subsection (a) shall not exceed \$1,000 per  
 18 device.

19 “(c) DEFINITIONS.—For purposes of subsection  
 20 (a)—

21 “(1) QUALIFYING IDLING REDUCTION DE-  
 22 VICE.—The term ‘qualifying idling reduction device’  
 23 means any device or system of devices that—

24 “(A) is installed on a heavy-duty diesel-  
 25 powered on-highway vehicle;

1           “(B) is designed to provide to such vehicle  
2           those services (such as heat, air conditioning, or  
3           electricity) that would otherwise require the op-  
4           eration of the main drive engine while the vehi-  
5           cle is temporarily parked or remains stationary;

6           “(C) the original use of which commences  
7           with the taxpayer;

8           “(D) is acquired for use by the taxpayer  
9           and not for resale; and

10          “(E) is certified by the Secretary of En-  
11          ergy, in consultation with the Administrator of  
12          the Environmental Protection Agency and the  
13          Secretary of Transportation, to reduce long-du-  
14          ration idling of such vehicle at a motor vehicle  
15          rest stop or other location where such vehicles  
16          are temporarily parked or remain stationary.

17          “(2) HEAVY-DUTY DIESEL-POWERED ON-HIGH  
18          WAY VEHICLE.—The term ‘heavy-duty diesel-pow-  
19          ered on-highway vehicle’ means any vehicle, ma-  
20          chine, tractor, trailer, or semi-trailer propelled or 21  
21          drawn by mechanical power and used upon the high-  
22          ways in the transportation of passengers or prop-  
23          erty, or any combination thereof determined by the  
24          Federal Highway Administration.



1           “(3) LONG-DURATION IDLING.—The term ‘long  
 2           duration idling’ means the operation of a main drive  
 3           engine, for a period greater than 15 consecutive  
 4           minutes, where the main drive engine is not engaged  
 5           in gear. Such term does not apply to routine stop  
 6           pages associated with traffic movement or conges-  
 7           tion.

8           “(d) NO DOUBLE BENEFIT.—For purposes of this  
 9           section—

10           “(1) REDUCTION IN BASIS.—If a credit is de-  
 11           termined under this section with respect to any  
 12           property by reason of expenditures described in sub-  
 13           section (a), the basis of such property shall be re-  
 14           duced by the amount of the credit so determined.

15           “(2) OTHER DEDUCTIONS AND CREDITS.—No  
 16           deduction or credit shall be allowed under any other  
 17           provision of this chapter with respect to the amount  
 18           of the credit determined under this section.

19           “(e) ELECTION NOT TO CLAIM CREDIT.—This sec-  
 20           tion shall not apply to a taxpayer for any taxable year  
 21           if such taxpayer elects to have this section not apply for  
 22           such taxable year”.

23           (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 24           CREDIT.—Section 38 of such Code (relating to general  
 25           business credit), as amended by this Act, is amended by

1 striking “plus” at the end of paragraph (34), by striking  
 2 the period at the end of paragraph (35) and inserting “,  
 3 plus”, and by adding at the end the following new para-  
 4 graph:

5 “(36) the idling reduction tax credit determined  
 6 under section 45Q(a).”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) The table of sections for subpart D of part  
 9 IV of subchapter A of chapter 1 of such Code is  
 10 amended by inserting after the item relating to sec-  
 11 tion 45P the following new item:

“Sec. 45Q. Idling reduction credit.”.

12 (2) Section 1016(a) of such Code, as amended  
 13 by this Act, is amended by striking “and” at the end  
 14 of paragraph (37), by striking the period at the end  
 15 of paragraph (38) and inserting “, and”, and by  
 16 adding at the end the following:

17 “(39) in the case of a facility with respect to  
 18 which a credit was allowed under section 45Q, to the  
 19 extent provided in section 45Q(d)(A).”.

20 (3) Section 6501(m) of such Code is amended  
 21 by inserting “45Q(e),” after “45C(d)(4),”.

22 (d) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to taxable years beginning after  
 24 December 31, 2008.

1 **SEC. 516. DETERMINATION OF CERTIFICATION STANDARDS**  
2 **BY SECRETARY OF ENERGY FOR CERTIFYING**  
3 **IDLING REDUCTION DEVICES.**

4 Not later than 6 months after the date of the enact-  
5 ment of this Act and in order to reduce air pollution and  
6 fuel consumption, the Secretary of Energy, in consultation  
7 with the Administrator of the Environmental Protection  
8 Agency and the Secretary of Transportation, shall publish  
9 the standards under which the Secretary, in consultation  
10 with the Administrator of the Environmental Protection  
11 Agency and the Secretary of Transportation, will, for pur-  
12 poses of section 45Q of the Internal Revenue Code of 1986  
13 (as added by this Act), certify the idling reduction devices  
14 which will reduce long-duration idling of vehicles at motor  
15 vehicle rest stops or other locations where such vehicles  
16 are temporarily parked or remain stationary in order to  
17 reduce air pollution and fuel consumption.

18 **SEC. 517. EXTENSION AND MODIFICATION OF ALTER-**  
19 **NATIVE MOTOR VEHICLE CREDIT.**

20 (a) **ELIMINATION OF MANUFACTURER LIMITA-**  
21 **TION.—**

22 (1) **IN GENERAL.—**Section 30B of the Internal  
23 Revenue Code of 1986, as amended by this Act, is  
24 amended—

25 (A) by striking subsection (f), and

1 (B) by redesignating subsections (g)  
2 through (k) as subsections (f) through (j), re-  
3 spectively.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Paragraphs (4) and (6) of section 30B  
6 (g) of the Internal Revenue Code of 1986 (as  
7 redesignated by paragraph (1)) are each  
8 amended by striking “(determined without re-  
9 gard to subsection (g))” and inserting “deter-  
10 mined without regard to subsection (f))”.

11 (B) Section 38(b)(25) of such Code is  
12 amended by striking “section 30B(g)(1)” and  
13 inserting “section 30B(f)(1)”.

14 (C) Section 55(c)(3) of such Code is  
15 amended by striking “section 30B(g)(2)” and  
16 inserting “section 30B(f)(2)”.

17 (D) Section 1016(a)(36) of such Code is  
18 amended by striking “section 30B(h)(4)” and  
19 inserting “section 30B(g)(4)”.

20 (E) Section 6501(m) of such Code is  
21 amended by striking “section 30B(h)(9)” and  
22 inserting “section 30B(g)(9)”.

23 (b) EXTENSION.—Subsection (j) of section 30B of  
24 the Internal Revenue Code of 1986 (as redesignated by  
25 subsection (a)) is amended—

1           (1) by striking “December 31, 2010” in para-  
 2           graphs (2) and (4) and inserting “December 31,  
 3           2014”, and

4           (2) by striking “December 31, 2009” in para-  
 5           graph (3) and inserting “December 31, 2012”.

6           (c) EFFECTIVE DATE.—The amendments made by  
 7           this section shall apply to property placed in service after  
 8           the date of enactment of this Act, in taxable years ending  
 9           after such date.

## 10       **Subtitle B—Alternative Fuels and** 11       **Biofuels**

### 12       **PART I—GENERAL PROVISIONS**

#### 13       **SEC. 521. BIOENERGY RESEARCH AND DEVELOPMENT.**

14           (a) IN GENERAL.—Section 931 of the Energy Policy  
 15           Act of 2005 (42 U.S.C. 16231) is amended as follows:

16           (1) In subsection (b), by striking paragraphs  
 17           (3) and (4) and inserting the following:

18           “(3) \$3,352,000,000 for fiscal year 2009; and

19           “(4) \$3,463,000,000 for fiscal year 2010.”.

20           (2) In subsection (c), by striking paragraphs  
 21           (3) and (4) and inserting the following:

22           “(3) \$2,898,000,000 for fiscal year 2009, of  
 23           which \$150,000,000 shall be for section 932(d); and

24           “(4) \$2,919,000,000 for fiscal year 2010, of  
 25           which \$150,000,000 shall be for section 932(d).”.

1 (b) PIPELINE INFRASTRUCTURE.—Section 212 of the  
 2 Clean Air Act (42 U.S.C. 7546) is amended by adding  
 3 at the end the following:

4 “(f) PIPELINE INFRASTRUCTURE.—

5 “(1) IN GENERAL.—The Administrator shall  
 6 provide grants for research into, and development  
 7 and implementation of, the manner in which pipeline  
 8 infrastructure can be retrofitted to accommodate  
 9 biofuels.

10 “(2) AUTHORIZATION OF APPROPRIATIONS.—

11 There are authorized to be appropriated such sums  
 12 as are necessary to carry out this subsection for  
 13 each of fiscal years 2009 through 2014.”.

14 **SEC. 522. ALTERNATIVE FUELED AUTOMOBILE PRODUC-**  
 15 **TION REQUIREMENT.**

16 Section 32905 of title 49, United States Code, as  
 17 amended by section 203 of this Act, is further amended  
 18 by adding at the end the following:

19 “(h) ALTERNATIVE FUELED AUTOMOBILES.—Each  
 20 manufacturer that manufactures automobiles for sale or  
 21 use in the United States shall ensure that—

22 “(1) not less than 75 percent of such auto-  
 23 mobiles manufactured for each of model years 2015  
 24 through 2019 are alternative fueled automobiles;  
 25 and

1           “(2) 100 percent of such automobiles manufac-  
 2           tured for model year 2020 and each subsequent  
 3           model year are alternative fueled automobiles.”.

4 **SEC. 523. DEFINITION OF RENEWABLE BIOMASS.**

5           Effective January 1, 2009, section 211(o)(1) of the  
 6 Clean Air Act (42 U.S.C.7545(o)(1)), as amended by sec-  
 7 tion 210(c) of the Energy Independence and Security Act  
 8 of 2007 (Public Law 110–140) is amended by striking  
 9 subparagraph (I) and inserting the following:

10                   “(I) RENEWABLE BIOMASS.—The term ‘re-  
 11                   newable biomass’ means—

12                           “(i)       materials,       pre-commercial  
 13                           thinnings, or invasive species from Na-  
 14                           tional Forest System land and public lands  
 15                           (as defined in section 103 of the Federal  
 16                           Land Policy and Management Act of 1976  
 17                           (43 U.S.C. 1702)) that—

18                                   “(I) are byproducts of preventive  
 19                                   treatments that are removed—

20   “(aa) to reduce hazardous  
 21   fuels;

22   “(bb) to reduce or contain  
 23   disease or insect infestation; or

24   “(cc) to restore ecosystem  
 25   health;

1 “(II) would not otherwise be used  
2 for higher-value products; and

3 “(III) are harvested in accord-  
4 ance with—

5 “(aa) applicable law and  
6 land management plans; and

7 “(bb) the requirements  
8 for—

9 “(AA) old-growth main-  
10 tenance, restoration, and  
11 management direction of  
12 paragraphs (2), (3), and (4)  
13 of subsection (e) of section  
14 102 of the Healthy Forests  
15 Restoration Act of 2003 (16  
16 U.S.C. 6512); and

17 “(BB) large-tree reten-  
18 tion of subsection (f) of that  
19 section; or

20 “(ii) any organic matter that is  
21 available on a renewable or recurring  
22 basis from non-Federal land or land be-  
23 longing to an Indian or Indian tribe that  
24 is held in trust by the United States or



subject to a restriction against alienation  
imposed by the United States, including—

“(I) renewable plant material, including—

“(aa) feed grains;

“(bb) other agricultural  
commodities;

“(cc) other plants and trees;  
and

“(dd) algae; and

“(II) waste material, including—

“(aa) crop residue;

“(bb) other vegetative waste  
material (including wood waste  
and wood residues);

“(cc) animal waste and by  
products (including fats, oils,  
greases, and manure); and

“(dd) food waste and yard  
waste.”.

**SEC. 524. LOAN GUARANTEES FOR RENEWABLE ENERGY  
PIPELINES.**

Subtitle C of title II of the Energy Independence and  
Security Act of 2007 (42 U.S.C. 17051 et seq.) is amended by adding at the end the following:

1   **“SEC. 249. LOAN GUARANTEES FOR RENEWABLE ENERGY**  
2                   **PIPELINES.**

3           “(a) DEFINITIONS.—In this section:

4               “(1) COST.—The term ‘cost’ has the meaning  
5           given the term ‘cost of a loan guarantee’ in section  
6           502(5)(C) of the Federal Credit Reform Act of 1990  
7           (2 U.S.C. 661a(5)(C)).

8               “(2) ELIGIBLE PROJECT.—The term eligible  
9           project means a project described in subsection  
10          (b)(1).

11              “(3) GUARANTEE.—

12                   “(A) IN GENERAL.—The term ‘guarantee’  
13           has the meaning given the term ‘loan guar-  
14           antee’ in section 502 of the Federal Credit Re-  
15           form Act of 1990 (2 U.S.C. 661a).

16                   “(B) INCLUSION.—The term ‘guarantee’  
17           includes a loan guarantee commitment (as de-  
18           fined in section 502 of the Federal Credit Re-  
19           form Act of 1990 (2 U.S.C. 661a)).

20              “(4) RENEWABLE ENERGY PIPELINE.—The  
21           term ‘renewable energy pipeline’ means a common  
22           carrier pipeline for transporting renewable energy.

23              “(b) LOAN GUARANTEES.—

24                   “(1) IN GENERAL.—The Secretary shall make  
25           guarantees under this section for projects that pro-  
26           vide for—

1           “(A) the construction of new renewable en-  
2           ergy pipelines; or

3           “(B) the modification of pipelines to trans-  
4           port renewable energy.

5           “(2) ELIGIBILITY.—In determining the eligi-  
6           bility of a project for a guarantee under this section,  
7           the Secretary shall consider—

8           “(A) the volume of renewable energy to be  
9           moved by the renewable energy pipeline;

10          “(B) the size of the markets to be served  
11          by the renewable energy pipeline;

12          “(C) the existence of sufficient storage to  
13          facilitate access to the markets served by the  
14          renewable energy pipeline;

15          “(D) the proximity of the renewable energy  
16          pipeline to ethanol production facilities;

17          “(E) the investment of the entity carrying  
18          out the proposed project in terminal infrastruc-  
19          ture;

20          “(F) the experience of the entity carrying  
21          out the proposed project in working with renew-  
22          able energy;

23          “(G) the ability of the entity carrying out  
24          the proposed project to maintain the quality of  
25          the renewable energy through—

1 “(i) the terminal system of the entity;

2 and

3 “(ii) the dedicated pipeline system;

4 “(H) the ability of the entity carrying out  
5 the proposed project to complete the project in  
6 a timely manner; and

7 “(I) the ability of the entity carrying out  
8 the proposed project to secure property rights  
9 of-way in order to move the proposed project  
10 forward in a timely manner.

11 “(3) AMOUNT.—Unless otherwise provided  
12 bylaw, a guarantee by the Secretary under this sec-  
13 tion shall not exceed an amount equal to 90 percent  
14 of the eligible project cost of the renewable energy  
15 pipeline that is the subject of the guarantee, as esti-  
16 mated at the time at which the guarantee is issued  
17 or subsequently modified while the eligible project is  
18 under construction.

19 “(4) TERMS AND CONDITIONS.—Guarantees  
20 under this section shall be provided in accordance  
21 with section 1702 of the Energy Policy Act of 2005  
22 (42 U.S.C. 16512), except that subsections (b) and  
23 (c) of that section shall not apply to guarantees  
24 under this section.

1           “(5) EXISTING FUNDING AUTHORITY.—The  
2       Secretary shall make a guarantee under this section  
3       under an existing funding authority.

4           “(6) FINAL RULE.—Not later than 90 days  
5       after the date of enactment of this section, the Sec-  
6       retary shall publish in the Federal Register a final  
7       rule directing the Director of the Department of En-  
8       ergy Loan Guarantee Program Office to initiate the  
9       loan guarantee program under this section in ac-  
10      cordance with this section.

11      “(c) Funding.—

12           “(1) IN GENERAL.—There are authorized to be  
13      appropriated such sums as are necessary to provide  
14      guarantees under this section.

15           “(2) USE OF OTHER APPROPRIATED FUNDS.—  
16      To the extent that the amounts made available  
17      under title XVII of the Energy Policy Act of 2005  
18      (42 U.S.C. 16511 et seq.) have not been disbursed  
19      to programs under that title, the Secretary may use  
20      the amounts to carry out this section.”.

## 21                           **PART II—TAX PROVISIONS**

### 22   **SEC. 530. REFERENCE.**

23      Except as otherwise expressly provided, whenever in  
24      this part an amendment or repeal is expressed in terms  
25      of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a  
 2 section or other provision of the Internal Revenue Code  
 3 of 1986.

4 **SEC. 531. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**  
 5 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**  
 6 **PROPERTY.**

7 (a) IN GENERAL.—Paragraph (3) of section 168(l)  
 8 (relating to special allowance for cellulosic biomass ethanol  
 9 plant property) is amended to read as follows:

10 “(3) CELLULOSIC BIOMASS ALCOHOL.—For  
 11 purposes of this subsection, the term ‘cellulosic bio-  
 12 mass alcohol’ means any alcohol produced from any  
 13 lignocellulosic or hemicellulosic matter that is avail-  
 14 able on a renewable or recurring basis.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subsection (l) of section 168 is amended by  
 17 striking “cellulosic biomass ethanol” each place it  
 18 appears and inserting “cellulosic biomass alcohol”.

19 (2) The heading of section 168(l) is amended  
 20 by striking “**CELLULOSIC BIOMASS ETHANOL**”  
 21 and inserting “**CELLULOSIC BIOMASS ALCO-**  
 22 **HOL**”.

23 (3) The heading of paragraph (2) of section  
 24 168(l) is amended by striking “CELLULOSIC BIO-

1       MASS ETHANOL” and inserting “CELLULOSIC BIO-  
2       MASS ALCOHOL”.

3       (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act, in taxable years  
6 ending after such date.

7       **SEC. 532. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**  
8                                   **HOL.**

9       (a) IN GENERAL.—Subsection (a) of section 40 (re-  
10 lating to alcohol used as fuel) is amended by striking  
11 “plus” at the end of paragraph (3), by striking the period  
12 at the end of paragraph (4) and inserting “, plus”, and  
13 by adding at the end the following new paragraph:

14               “(5) the small fossil free alcohol producer cred-  
15       it.”.

16       (b) SMALL FOSSIL FREE ALCOHOL PRODUCER  
17 CREDIT.—

18               (1) IN GENERAL.—Subsection (b) of section 40  
19 is amended by adding at the end the following new  
20 paragraph:

21               “(7) SMALL FOSSIL FREE ALCOHOL PRODUCER  
22 CREDIT.—

23               “(A) IN GENERAL.—In addition to any  
24 other credit allowed under this section, there  
25 shall be allowed as a credit against the tax im-

posed by this chapter for the taxable year an amount equal to 25 cents for each gallon of qualified fossil free alcohol production.

“(B) QUALIFIED FOSSIL FREE ALCOHOL PRODUCTION.—For purposes of this section, the term ‘qualified fossil free alcohol production’ means alcohol which is produced by an eligible small fossil free alcohol producer at a fossil free alcohol production facility and which during the taxable year—

“(i) is sold by the taxpayer to another person—

“(I) for use by such other person in the production of a qualified alcohol mixture in such other person’s trade or business (other than casual off-farm production);

“(II) for use by such other person as a fuel in a trade or business; or

“(III) who sells such alcohol at retail to another person and places such alcohol in the fuel tank of such other person; or



1                   “(ii) is used or sold by the taxpayer  
2                   for any purpose described in clause (i).

3                   “(C)    ADDITIONAL    DISTILLATION    EX-  
4                   CLUDED.—The qualified fossil free alcohol pro-  
5                   duction of any taxpayer for any taxable year  
6                   shall not include any alcohol which is purchased  
7                   by the taxpayer and with respect to which such  
8                   producer increases the proof of the alcohol by  
9                   additional distillation.”.

10           (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-  
11   DUCER.—Section 40 is amended by adding at the end the  
12   following new subsection:

13           “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL  
14   FOSSIL FREE ALCOHOL PRODUCER.—For purposes of  
15   this section—

16           “(1) IN GENERAL.—The term ‘eligible small  
17           fossil free alcohol producer’ means a person, who at  
18           all times during the taxable year, has a productive  
19           capacity for alcohol from all fossil free alcohol pro-  
20           duction facilities of the taxpayer which is not in ex-  
21           cess of 60,000,000 gallons.

22           “(2) FOSSIL FREE ALCOHOL PRODUCTION  
23   FACILITY.—The term ‘fossil free alcohol production  
24   facility’ means any facility at which 90 percent of

1 fuel used in the production of alcohol is from bio-  
2 mass (as defined in section 45K(c)(3)).

3 “(3) AGGREGATION RULE.—For purposes of  
4 the 60,000,000 gallon limitation under paragraph  
5 (1), all members of the same controlled group of cor-  
6 porations (within the meaning of section 267(f)) and  
7 all persons under common control (within the mean-  
8 ing of section 52(b) but determined by treating an  
9 interest of more than 50 percent as a controlling in-  
10 terest) shall be treated as 1 person.

11 “(4) PARTNERSHIP, S CORPORATIONS, AND  
12 OTHER PASS-THRU ENTITIES.—In the case of a  
13 partnership, trust, S corporation, or other pass-thru  
14 entity, the limitation contained in paragraph (1)  
15 shall be applied at the entity level and at the partner  
16 or similar level.

17 “(5) ALLOCATION.—For purposes of this sub  
18 section, in the case of a facility in which more than  
19 1 person has an interest, productive capacity shall  
20 be allocated among such persons in such manner as  
21 the Secretary may prescribe.

22 “(6) REGULATIONS.—The Secretary may pre-  
23 scribe such regulations as may be necessary to pre-  
24 vent the credit provided for in subsection (a)(5)  
25 from directly or indirectly benefitting any person

1 with a direct or indirect productive capacity of more  
 2 than 60,000,000 gallons of alcohol from fossil free  
 3 alcohol production facilities during the taxable year.

4 “(7) ALLOCATION OF SMALL FOSSIL FREE AL-  
 5 COHOL PRODUCER CREDIT TO PATRONS OF COOPER-  
 6 ATIVE.—Rules similar to the rules under subsection  
 7 (g)(6) shall apply for purposes of this subsection.”.

8 (d) ALCOHOL NOT USED AS A FUEL, ETC.—

9 (1) IN GENERAL.—Paragraph (3) of section  
 10 40(d) is amended by redesignating subparagraph  
 11 (E) as subparagraph (F) and by inserting after sub-  
 12 paragraph (D) the following new subparagraph:

13 “(E) SMALL FOSSIL FREE ALCOHOL PRO-  
 14 DUCER CREDIT.—If—

15 “(i) any credit is allowed under sub-  
 16 section (a)(5); and

17 “(ii) any person does not use such  
 18 fuel for a purpose described in subsection  
 19 (b)(7)(B), then there is hereby imposed on  
 20 such person a tax equal to 25 cents for  
 21 each gallon of such alcohol.”.

22 (2) CONFORMING AMENDMENT.—Subparagraph  
 23 (F) of section 40(d)(3), as redesignated by para-  
 24 graph (1), is amended by striking “or (D)” and in-  
 25 serting “(D), or (E)”.

1 (e) TERMINATION.—Paragraph (1) of section 40(e)  
2 is amended—

3 (1) in subparagraph (A), by inserting “(Decem-  
4 ber 31, 2012, in the case of the credit allowed by  
5 reason of subsection (a)(5))” after “December 31,  
6 2010”, and

7 (2) in subparagraph (B), by inserting “(Janu-  
8 ary 1, 2013, in the case of the credit allowed by rea-  
9 son of subsection (a)(5))” after “January 1, 2011”.

10 (f) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to fuel produced after the date of  
12 enactment of this Act.

13 **SEC. 533. EXTENSION AND MODIFICATION OF CREDIT FOR**  
14 **BIODIESEL USED AS FUEL.**

15 (a) EXTENSION.—

16 (1) INCOME TAX CREDITS FOR BIODIESEL AND  
17 RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL  
18 PRODUCER CREDIT.—Section 40A(g) (relating to  
19 termination) is amended by striking “December 31,  
20 2008” and inserting “December 31, 2012”.

21 (2) EXCISE TAX CREDIT.—Section 6426(c)(6)  
22 (relating to termination) is amended by striking  
23 “2008” and inserting “2012”.

24 (3) FUELS NOT USED FOR TAXABLE PUR-  
25 POSES.—Section 6427(e)(5)(B) (relating to termi-

1 nation) is amended by striking “2008” and inserting  
2 “2012”.

3 (b) MODIFICATION OF CREDIT FOR RENEWABLE  
4 DIESEL.—

5 (1) ELIGIBILITY OF CERTAIN AVIATION  
6 FUEL.—Paragraph (3) of section 40A(f) (defining  
7 renewable diesel) is amended by adding at the end  
8 the following: “The term ‘renewable diesel’ also  
9 means fuel derived from biomass which meets the re-  
10 quirements of a Department of Defense specification  
11 for military jet fuel or an American Society of Test-  
12 ing and Materials specification for aviation turbine  
13 fuel.”.

14 (2) CO-PROCESSED RENEWABLE DIESEL.—Sec-  
15 tion 40A(f) (relating to renewable diesel) is amended  
16 by adding at the end the following new paragraph:

17 “(4) SPECIAL RULE FOR CO-PROCESSED RE-  
18 NEWABLE DIESEL.—In the case of a taxpayer which  
19 produces renewable diesel through the co-processing  
20 of biomass and petroleum at any facility, this sub-  
21 section shall not apply to so much of the renewable  
22 diesel produced at such facility and sold or used dur-  
23 ing the taxable year in a qualified biodiesel mixture  
24 as exceeds 60,000,000 gallons.”.

1 (c) MODIFICATION RELATING TO DEFINITION OF  
 2 AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-  
 3 lating to agri-biodiesel) is amended by striking “and mus-  
 4 tard seeds” and inserting “mustard seeds, and camelina”.

5 (d) EFFECTIVE DATES.—The amendments made by  
 6 this section shall apply to fuel sold or used after the date  
 7 of the enactment of this Act.

8 **SEC. 534. EXTENSION AND MODIFICATION OF ALTER-**  
 9 **NATIVE FUEL CREDIT.**

10 (a) EXTENSION.—

11 (1) ALTERNATIVE FUEL CREDIT.—Paragraph  
 12 (4) of section 6426(d) (relating to alternative fuel  
 13 credit) is amended by striking “September 30,  
 14 2009” and inserting “December 31, 2012”.

15 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—  
 16 Paragraph (3) of section 6426(e) (relating to alter-  
 17 native fuel mixture credit) is amended by striking  
 18 “September 30, 2009” and inserting “December 31,  
 19 2012”.

20 (3) PAYMENTS.—Subparagraph (C) of section  
 21 6427(e)(5) (relating to termination) is amended by  
 22 striking “September 30, 2009” and inserting “De-  
 23 cember 31, 2012”.

24 (b) MODIFICATIONS.—

1           (1) ALTERNATIVE FUEL TO INCLUDE COM-  
2       PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph  
3       (2) of section 6426(d) (relating to alternative fuel  
4       credit) is amended by striking “and” at the end of  
5       subparagraph (E), by redesignating subparagraph  
6       (F) as subparagraph (G), and by inserting after sub-  
7       paragraph (E) the following new subparagraph:

8                     “(F) compressed or liquified biomass gas,  
9                     and”.

10           (2) CREDIT ALLOWED FOR AVIATION USE OF  
11       FUEL.—Paragraph (1) of section 6426(d) is amend-  
12       ed by inserting “sold by the taxpayer for use as a  
13       fuel in aviation,” after “motorboat,”.

14       (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN  
15       FUELS.—

16           (1) IN GENERAL.—Subsection (d) of section  
17       6426, as amended by subsection (a), is amended by  
18       redesignating paragraph (4) as paragraph (5) and  
19       by inserting after paragraph (3) the following new  
20       paragraph:

21                     “(4) CARBON CAPTURE REQUIREMENT.—The  
22       requirements of this paragraph are met if the fuel  
23       is certified, under such procedures as required by  
24       the Secretary, as having been produced at a facility  
25       which separates and sequesters not less than 75 per-

1 cent of such facility's total carbon dioxide emis-  
 2 sions.”.

3 (2) CONFORMING AMENDMENT.—Subparagraph  
 4 (E) of section 6426(d)(2) is amended by inserting  
 5 “which meets the requirements of paragraph (4) and  
 6 which is” after “any liquid fuel”.

7 (d) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-  
 9 graph (2), the amendments made by this section  
 10 shall apply to fuel sold or used after the date of the  
 11 enactment of this Act.

12 (2) CARBON CAPTURE REQUIREMENTS.—The  
 13 amendments made by subsection (c) shall apply to  
 14 fuel sold or used after December 31, 2008.

15 **SEC. 535. EXTENSION OF SUSPENSION OF TAXABLE IN-**  
 16 **COME LIMIT ON PERCENTAGE DEPLETION**  
 17 **FOR OIL AND NATURAL GAS PRODUCED**  
 18 **FROM MARGINAL PROPERTIES.**

19 Subparagraph (H) of section 613A(c)(6) (relating to  
 20 oil and gas produced from marginal properties) is amend-  
 21 ed by striking “January 1, 2008” and inserting “January  
 22 1, 2013”.



1 **SEC. 536. EXTENSION AND MODIFICATION OF ELECTION TO**  
2 **EXPENSE CERTAIN REFINERIES.**

3 (a) EXTENSION.—Paragraph (1) of section 179C(c)  
4 (relating to qualified refinery property) is amended—

5 (1) by striking “January 1, 2012” in subpara-  
6 graph (B) and inserting “January 1, 2013”, and

7 (2) by striking “January 1, 2008” each place  
8 it appears in subparagraph (F) and inserting “Janu-  
9 ary 1, 2010”.

10 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND  
11 TAR SANDS.—

12 (1) IN GENERAL.—Subsection (d) of section  
13 179C is amended by inserting “, or directly from  
14 shale or tar sands” after “(as defined in section  
15 45K(c))”.

16 (2) CONFORMING AMENDMENT.—Paragraph (2)  
17 of section 179C(e) is amended by inserting “shale,  
18 tar sands, or” before “qualified fuels”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to property placed in service after  
21 the date of the enactment of this Act.

22 **SEC. 537. HYDROGEN INSTALLATION, INFRASTRUCTURE,**  
23 **AND FUEL COSTS.**

24 (a) IN GENERAL.—Subpart B of part IV of sub-  
25 chapter A of chapter 1 (relating to foreign tax credit, etc.),

1 as amended by this Act, is amended by adding at the end  
2 the following new section:

3 **“SEC. 30F. HYDROGEN INSTALLATION, INFRASTRUCTURE,**  
4 **AND FUEL COSTS.**

5 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
6 lowed as a credit against the tax imposed by this chapter  
7 for the taxable year an amount equal to the sum of—

8 “(1) the hydrogen installation and infrastruc-  
9 ture costs credit determined under subsection (b),  
10 and

11 “(2) the hydrogen fuel costs credit determined  
12 under subsection (c).

13 “(b) HYDROGEN INSTALLATION AND INFRASTRUC-  
14 TURE COSTS CREDIT.—

15 “(1) IN GENERAL.—For purposes of subsection  
16 (a), the hydrogen installation and infrastructure  
17 costs credit determined under this subsection with  
18 respect to each eligible hydrogen production and dis-  
19 tribution facility of the taxpayer is an amount equal  
20 to—

21 “(A) 30 percent of so much of the installa-  
22 tion costs which when added to such costs  
23 taken into account with respect to such facility  
24 for all preceding taxable years under this sub-  
25 paragraph does not exceed \$200,000, plus

1           “(B) 30 percent of so much of the infra-  
2           structure costs for the taxable year as does not  
3           exceed \$200,000 with respect to such facility,  
4           and which when added to such costs taken into  
5           account with respect to such facility for all pre-  
6           ceding taxable years under this subparagraph  
7           does not exceed \$600,000.

8           Nothing in this section shall permit the same cost to  
9           be taken into account more than once.

10           “(2) ELIGIBLE HYDROGEN PRODUCTION AND  
11           DISTRIBUTION FACILITY.—For purposes of this sub-  
12           section, the term ‘eligible hydrogen production and  
13           distribution facility’ means a hydrogen production  
14           and distribution facility which is placed in service  
15           after December 31, 2008.

16           “(c) HYDROGEN FUEL COSTS CREDIT.—

17           “(1) IN GENERAL.—For purposes of subsection  
18           (a), the hydrogen fuel costs credit determined under  
19           this subsection with respect to each eligible hydrogen  
20           device of the taxpayer is an amount equal to the  
21           qualified hydrogen expenditure amounts with respect  
22           to such device.

23           “(2) QUALIFIED HYDROGEN EXPENDITURE  
24           AMOUNT.—For purposes of this subsection—

1           “(A) IN GENERAL.—The term ‘qualified  
2           hydrogen expenditure amount’ means, with re-  
3           spect to each eligible hydrogen energy conver-  
4           sion device of the taxpayer with a production  
5           capacity of not more than 25 kilowatts of elec-  
6           tricity per year, the lesser of—

7                   “(i) 30 percent of the amount paid or  
8                   incurred by the taxpayer during the tax-  
9                   able year for hydrogen which is consumed  
10                  by such device, and

11                  “(ii) \$2,000.

12           In the case of any device which is not owned by  
13           the taxpayer at all times during the taxable  
14           year, the \$2,000 amount in subparagraph (B)  
15           shall be reduced by an amount which bears the  
16           same ratio to \$2,000 as the portion of the year  
17           which such device is not owned by the taxpayer  
18           bears to the entire year.

19           “(B) HIGHER LIMITATION FOR DEVICES  
20           WITH MORE PRODUCTION CAPACITY.—In the  
21           case of any eligible hydrogen energy conversion  
22           device with a production capacity of—

23                   “(i) more than 25 but less than 100  
24                   kilowatts of electricity per year, subpara-  
25                   graph (A) shall be applied by substituting

1           ‘\$4,000’ for ‘\$2,000’ each place it appears;  
2           and

3           “(ii) not less than 100 kilowatts of  
4           electricity per year, subparagraph (A) shall  
5           be applied by substituting ‘\$6,000’ for  
6           ‘\$2,000’ each place it appears.

7           “(3) ELIGIBLE HYDROGEN ENERGY CONVER-  
8           SION DEVICES.—For purposes of this subsection—

9           “(A) IN GENERAL.—The term ‘eligible hy-  
10          drogen energy conversion device’ means, with  
11          respect to any taxpayer, any hydrogen energy  
12          conversion device which—

13               “(i) is placed in service after Decem-  
14               ber 31, 2004; and

15               “(ii) is wholly owned by the taxpayer  
16               during the taxable year.

17          If an owner of a device (determined without re-  
18          gard to this subparagraph) provides to the pri-  
19          mary user of such device a written statement  
20          that such user shall be treated as the owner of  
21          such device for purposes of this section, then  
22          such user (and not such owner) shall be so  
23          treated.

1                   “(B) HYDROGEN ENERGY CONVERSION  
2           DEVICE.—The term ‘hydrogen energy conver-  
3           sion device’ means—

4                   “(i) any electrochemical device which  
5                   converts hydrogen into electricity; and

6                   “(ii) any combustion engine which  
7                   burns hydrogen as a fuel.

8           “(d) REDUCTION IN BASIS.—For purposes of this  
9           subtitle, if a credit is allowed under this section for any  
10          expenditure with respect to any property, the increase in  
11          the basis of such property which would (but for this para-  
12          graph) result from such expenditure shall be reduced by  
13          the amount of the credit so allowed.

14          “(e) APPLICATION WITH OTHER CREDITS.—

15                  “(1) BUSINESS CREDIT TREATED AS PART OF  
16          GENERAL BUSINESS CREDIT.—So much of the credit  
17          which would be allowed under subsection (a) for any  
18          taxable year (determined without regard to this sub-  
19          section) that is attributable to amounts which (but  
20          for subsection (g) would be allowed as a deduction  
21          under section 162 shall be treated as a credit listed  
22          in section 38(b) for such taxable year (and not al-  
23          lowed under subsection (a)).

24                  “(2) PERSONAL CREDIT.—The credit allowed  
25          under subsection (a) (after the application of para-

1 graph (1)) for any taxable year shall not exceed the  
2 excess (if any) of—

3 “(A) the regular tax liability (as defined in  
4 section 26(b)) reduced by the sum of the credits  
5 allowable under subpart A and sections 27, 30,  
6 30B, and 30C, over

7 “(B) the tentative minimum tax for the  
8 taxable year.

9 “(f) DENIAL OF DOUBLE BENEFIT.—The amount of  
10 any deduction or other credit allowable under this chapter  
11 for any cost taken into account in determining the amount  
12 of the credit under subsection (a) shall be reduced by the  
13 amount of such credit attributable to such cost.

14 “(g) RECAPTURE.—The Secretary shall, by regula-  
15 tions, provided for recapturing the benefit of any credit  
16 allowable under subsection (a) with respect to any prop-  
17 erty which ceases to be property eligible for such credit.

18 “(h) ELECTION NOT TO TAKE CREDIT.—No credit  
19 shall be allowed under subsection (a) for any property if  
20 the taxpayer elects not to have this section apply to such  
21 property.

22 “(i) REGULATIONS.—The Secretary shall prescribe  
23 such regulations as necessary to carry out the provisions  
24 of this section.

1       “(j) TERMINATION.—This section shall not apply to  
2 any costs after December 31, 2012.”.

3       (b) CONFORMING AMENDMENTS.—

4           (1) Section 38(b), as amended by this Act, is  
5 amended by striking “plus” at the end of paragraph  
6 (35), by striking the period at the end of paragraph  
7 (36) and inserting “plus”, and by adding at the end  
8 the following new paragraph:

9           “(37) the portion of the hydrogen installation,  
10 infrastructure, and fuel credit to which section  
11 30F(e)(1) applies.”.

12          (2) Section 55(c)(3), as amended by this Act, is  
13 amended by inserting “30F(e)(2),” after  
14 “30C(d)(2),”.

15          (3) Section 1016(a), as amended by this Act, is  
16 amended by striking “and” at the end of paragraph  
17 (38), by striking the period at the end of paragraph  
18 (39) and inserting “, and”, and by adding at the  
19 end the following new paragraph:

20          “(40) to the extent provided in section  
21 30F(d).”.

22          (4) Section 6501(m), as amended by this Act,  
23 is amended by inserting “30F(h),” after  
24 “30E(c)(3),”.



1           (5) The table of sections for subpart B of part  
 2           IV of subchapter A of chapter 1 is amended by in-  
 3           serting after the item relating to section 30E the fol-  
 4           lowing new item:

“Sec. 30F. Hydrogen installation, infrastructure, and fuel costs.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to amounts paid or incurred after  
 7 the date of the enactment of this Act, in taxable years  
 8 ending after such date.

9   **SEC. 538. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**  
 10                           **ERTY CREDIT.**

11          (a) INCREASE IN CREDIT AMOUNT.—Section 30C is  
 12 amended—

13               (1) by striking “30 percent” in subsection (a)  
 14               and inserting “50 percent”, and

15               (2) by striking “\$30,000” in subsection (b)(1)  
 16               and inserting “\$50,000”.

17          (b) EXTENSION OF CREDIT.—Paragraph (2) of sec-  
 18 tion 30C(g) is amended by striking “December 31, 2009”  
 19 and inserting “December 31, 2012”.

20          (c) INCLUSION OF ELECTRICITY AS A CLEAN-BURN-  
 21 ING FUEL.—Section 30C(c)(2) is amended by adding at  
 22 the end the following new subparagraph:

23                       “(C) Electricity.”.

24          (d) EFFECTIVE DATE.—The amendments made by  
 25 this section shall apply to property placed in service after

1 the date of the enactment of this Act, in taxable years  
 2 ending after such date.

3 **SEC. 539. CERTAIN INCOME AND GAINS RELATING TO AL-**  
 4 **COHOL FUELS AND MIXTURES, BIODIESEL**  
 5 **FUELS AND MIXTURES, AND ALTERNATIVE**  
 6 **FUELS AND MIXTURES TREATED AS QUALI-**  
 7 **FYING INCOME FOR PUBLICLY TRADED**  
 8 **PARTNERSHIPS.**

9 (a) IN GENERAL.—Subparagraph (E) of section  
 10 7704(d)(1) is amended by inserting “, or the transpor-  
 11 tation, storage, or marketing of any fuel described in sub-  
 12 section (b), (c), (d), or (e) of section 6426, or any alcohol  
 13 fuel defined in section 6426(b)(4)(A) or any biodiesel fuel  
 14 as defined in section 40A(d)(1)” after “timber”).

15 (b) EFFECTIVE DATE.—The amendment made by  
 16 this section shall take effect on the date of the enactment  
 17 of this Act, in taxable years ending after such date.

18 **Subtitle C—Other Provisions**

19 **PART I—GENERAL PROVISIONS**

20 **SEC. 541. ENERGY EFFICIENCY AND CONSERVATION BLOCK**  
 21 **GRANTS.**

22 Section 544 of the Energy Independence and Security  
 23 Act of 2007 (42 U.S.C. 17154) is amended—

24 (1) in paragraph (13), by striking “and” at the  
 25 end;

1           (2) by redesignating paragraph (14) as para-  
2       graph (15); and

3           (3) by inserting after paragraph (13) the fol-  
4       lowing:

5           “(14) development, implementation, and instal-  
6       lation of smart grid technologies and smart grid  
7       functions (as defined in section 1306(d)); and”.

8       **SEC. 542. WEATHERIZATION ASSISTANCE PROGRAM FOR**  
9                               **LOW-INCOME PERSONS.**

10       (a) IN GENERAL.—Section 422 of the Energy Con-  
11       servation and Production Act (42 U.S.C. 6872) is amend-  
12       ed—

13           (1) by striking the section heading and all that  
14       follows through “For the purpose” and inserting the  
15       following:

16       **“SEC. 422 FUNDING.**

17           “(a) DISCRETIONARY FUNDING.—For the purpose”;

18           (1) by striking “fiscal year 2008” and inserting  
19       “each of fiscal years 2008 through 2012”; and

20           (2) by adding at the end the following:

21       **“(b) MANDATORY FUNDING.—**

22           “(1) IN GENERAL.—In addition to any amounts  
23       made available under subsection (a), on October 1,  
24       2008, and on each October 1 thereafter through Oc-  
25       tober 1, 2011, out of any funds in the Treasury not

1 otherwise appropriated, the Secretary of the Treas-  
 2 ury shall transfer to the Secretary to carry out this  
 3 part \$500,000,000, to remain available until ex-  
 4 pended.

5 “(2) RECEIPT AND ACCEPTANCE.—The Sec-  
 6 retary shall be entitled to receive, shall accept, and  
 7 shall use to carry out this part the funds transferred  
 8 under paragraph (1), without further appropria-  
 9 tion.”.

10 (b) CONFORMING AMENDMENTS.—Section 415 of the  
 11 Energy Conservation and Production Act (42 U.S.C.  
 12 6865) is amended by striking “section 422(b)” each place  
 13 it appears in subsections (d) and (e)(1)(A) and inserting  
 14 “section 422”.

15 **SEC. 543. RENEWABLE ENERGY WORKFORCE.**

16 Section 1101 of the Energy Policy Act of 2005 (42  
 17 U.S.C. 16411) is amended—

18 (1) in subsection (b)(1)—

19 (A) in subparagraph (A), by striking  
 20 “and” at the end;

21 (B) in subparagraph (B), by striking the  
 22 period and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(D) renewable energy product and service  
 25 industries.”;

1           (2) by redesignating subsection (d) as sub-  
2           section (e); and

3           (3) by inserting after subsection (c) the fol-  
4           lowing:

5           “(d) WORKFORCE TRAINING.—

6           “(1) IN GENERAL.—The Secretary of Labor, in  
7           cooperation with the Secretary, shall promulgate  
8           regulations to implement a program to provide  
9           grants to enhance workforce training for any occu-  
10          pation in the workforce of the renewable energy  
11          products and services industries for which a short-  
12          age is identified or predicted in the report under  
13          subsection (b)(2).

14          “(2) CONSULTATION.—In carrying out this sub-  
15          section, the Secretary of Labor shall consult with  
16          representatives of the renewable energy industry and  
17          renewable energy products and services industries,  
18          including organized labor organizations and other  
19          stakeholders.

20          “(3) AUTHORIZATION OF APPROPRIATIONS.—

21          There are authorized to be appropriated to the Sec-  
22          retary of Labor, working in coordination with the  
23          Secretary and the Secretary of Education,  
24          \$20,000,000 for each of fiscal years 2009 through  
25          2013 to carry out this subsection.”.

**PART II—TAX PROVISIONS****SEC. 550. REFERENCE.**

Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**Subpart A—Renewable Energy Incentives****SEC. 551. RENEWABLE ENERGY CREDIT.**

(a) EXTENSION OF CREDIT.—

(1) 4-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking “January 1, 2009” and inserting “January 1, 2013”.

(2) 4-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking “January 1, 2009” and inserting “January 1, 2013”:

(A) Clauses (i) and (ii) of paragraph

(2)(A).

(B) Clauses (i)(I) and (ii) of paragraph

(3)(A).

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

1 (F) Paragraph (7).

2 (G) Subparagraphs (A) and (B) of para-  
3 graph (9).

4 (b) MODIFICATION OF CREDIT PHASEOUT.—

5 (1) REPEAL OF PHASEOUT.—Subsection (b) of  
6 section 45 is amended—

7 (A) by striking paragraph (1), and

8 (B) by striking “the 8 cent amount in  
9 paragraph (1),” in paragraph (2) thereof.

10 (2) LIMITATION BASED ON INVESTMENT IN FA-  
11 CILITY.—Subsection (b) of section 45 is amended by  
12 inserting before paragraph (2) the following new  
13 paragraph:

14 “(1) LIMITATION BASED ON INVESTMENT IN  
15 FACILITY.—

16 “(A) IN GENERAL.—In the case of any  
17 qualified facility originally placed in service  
18 after December 31, 2009, the amount of the  
19 credit determined under subsection (a) for any  
20 taxable year with respect to electricity produced  
21 at such facility shall not exceed the product  
22 of—

23 “(i) the applicable percentage with re-  
24 spect to such facility, multiplied by

25 “(ii) the eligible basis of such facility.

1           “(B) CARRYFORWARD OF UNUSED LIMITA-  
2           TION AND EXCESS CREDIT.—

3                   “(i) UNUSED LIMITATION.—If the  
4                   limitation imposed under subparagraph (A)  
5                   with respect to any facility for any taxable  
6                   year exceeds the prelimitation credit for  
7                   such facility for such taxable year, the lim-  
8                   itation imposed under subparagraph (A)  
9                   with respect to such facility for the suc-  
10                  ceeding taxable year shall be increased by  
11                  the amount of such excess.

12                  “(ii) EXCESS CREDIT.—If the  
13                  prelimitation credit with respect to any fa-  
14                  cility for any taxable year exceeds the limi-  
15                  tation imposed under subparagraph (A)  
16                  with respect to such facility for such tax-  
17                  able year, the credit determined under sub-  
18                  section (a) with respect to such facility for  
19                  the succeeding taxable year (determined  
20                  before the application of subparagraph (A)  
21                  for such succeeding taxable year) shall be  
22                  increased by the amount of such excess.  
23                  With respect to any facility, no amount  
24                  may be carried forward under this clause  
25                  to any taxable year beginning after the 10-



1 year period described in subsection  
2 (a)(2)(A)(ii) with respect to such facility.

3 “(iii) PRELIMINATION CREDIT.—The  
4 term ‘prelimination credit’ with respect to  
5 any facility for a taxable year means the  
6 credit determined under subsection (a)  
7 with respect to such facility for such tax-  
8 able year, determined without regard to  
9 subparagraph (A) and after taking into ac-  
10 count any increase for such taxable year  
11 under clause (ii).

12 “(C) APPLICABLE PERCENTAGE.—For  
13 purposes of this paragraph—

14 “(i) IN GENERAL.—The term ‘applica-  
15 ble percentage’ means, with respect to any  
16 facility, the appropriate percentage pre-  
17 scribed by the Secretary for the month in  
18 which such facility is originally placed in  
19 service.

20 “(ii) METHOD OF PRESCRIBING AP-  
21 PPLICABLE PERCENTAGES.—The applicable  
22 percentages prescribed by the Secretary for  
23 any month under clause (i) shall be per-  
24 centages which yield over a 10-year period  
25 amounts of limitation under subparagraph

1 (A) which have a present value equal to 35  
 2 percent of the eligible basis of the facility.

3 “(iii) METHOD OF DISCOUNTING.—  
 4 The present value under clause (ii) shall be  
 5 determined—

6 “(I) as of the last day of the 1st  
 7 year of the 10-year period referred to  
 8 in clause (ii),

9 “(II) by using a discount rate  
 10 equal to the greater of 110 percent of  
 11 the Federal long-term rate as in effect  
 12 under section 1274(d) for the month  
 13 preceding the month for which the ap-  
 14 plicable percentage is being pre-  
 15 scribed, or 4.5 percent, and

16 “(III) by taking into account the  
 17 limitation under subparagraph (A) for  
 18 any year on the last day of such year.

19 “(D) ELIGIBLE BASIS.—For purposes of  
 20 this paragraph—

21 “(i) IN GENERAL.—The term ‘eligible  
 22 basis’ means, with respect to any facility,  
 23 the sum of—

24 “(I) the basis of such facility de-  
 25 termined as of the time that such fa-

1           cility is originally placed in service,  
2           and

3                   “(II) the portion of the basis of  
4           any shared qualified property which is  
5           properly allocable to such facility  
6           under clause (ii).

7                   “(ii) RULES FOR ALLOCATION.—For  
8           purposes of subclause (II) of clause (i), the  
9           basis of shared qualified property shall be  
10          allocated among all qualified facilities  
11          which are projected to be placed in service  
12          and which require utilization of such prop-  
13          erty in proportion to projected generation  
14          from such facilities.

15                   “(iii) SHARED QUALIFIED PROP-  
16          ERTY.—For purposes of this paragraph,  
17          the term ‘shared qualified property’ means,  
18          with respect to any facility, any property  
19          described in section 168(e)(3)(B)(vi)—

20                           “(I) which a qualified facility will  
21                           require for utilization of such facility,  
22                           and

23                                   “(II) which is not a qualified fa-  
24                           cility.

1                   “(iv) SPECIAL RULE RELATING TO  
2                   GEOTHERMAL FACILITIES.—In the case of  
3                   any qualified facility using geothermal en-  
4                   ergy to produce electricity, the basis of  
5                   such facility for purposes of this paragraph  
6                   shall be determined as though intangible  
7                   drilling and development costs described in  
8                   section 263(c) were capitalized rather than  
9                   expensed.

10                  “(E) SPECIAL RULE FOR FIRST AND LAST  
11                  YEAR OF CREDIT PERIOD.—In the case of any  
12                  taxable year any portion of which is not within  
13                  the 10-year period described in subsection  
14                  (a)(2)(A)(ii) with respect to any facility, the  
15                  amount of the limitation under subparagraph  
16                  (A) with respect to such facility shall be re-  
17                  duced by an amount which bears the same ratio  
18                  to the amount of such limitation (determined  
19                  without regard to this subparagraph) as such  
20                  portion of the taxable year which is not within  
21                  such period bears to the entire taxable year.

22                  “(F) ELECTION TO TREAT ALL FACILITIES  
23                  PLACED IN SERVICE IN A YEAR AS 1 FACIL-  
24                  ITY.—At the election of the taxpayer, all quali-  
25                  fied facilities which are part of the same project

1           and which are placed in service during the same  
 2           calendar year shall be treated for purposes of  
 3           this section as 1 facility which is placed in serv-  
 4           ice at the mid-point of such year or the first  
 5           day of the following calendar year.”.

6           (c) TRASH FACILITY CLARIFICATION.—Paragraph  
 7 (7) of section 45(d) is amended—

8           (1) by striking “facility which burns” and in-  
 9           serting “facility (other than a facility described in  
 10          paragraph (6)) which uses”, and

11          (2) by striking “COMBUSTION”.

12          (d) EXPANSION OF BIOMASS FACILITIES.—

13          (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
 14          graph (3) of section 45(d) is amended by redesign-  
 15          ating subparagraph (B) as subparagraph (C) and  
 16          by inserting after subparagraph (A) the following  
 17          new subparagraph:

18                 “(B) EXPANSION OF FACILITY.—Such  
 19                 term shall include a new unit placed in service  
 20                 after the date of the enactment of this subpara-  
 21                 graph in connection with a facility described in  
 22                 subparagraph (A), but only to the extent of the  
 23                 increased amount of electricity produced at the  
 24                 facility by reason of such new unit.”.

1           (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
2       graph (2) of section 45(d) is amended by redesign-  
3       nating subparagraph (B) as subparagraph (C) and  
4       inserting after subparagraph (A) the following new  
5       subparagraph:

6           “(B) EXPANSION OF FACILITY.—Such  
7       term shall include a new unit placed in service  
8       after the date of the enactment of this subpara-  
9       graph in connection with a facility described in  
10      subparagraph (A)(i), but only to the extent of  
11      the increased amount of electricity produced at  
12      the facility by reason of such new unit.”.

13      (e) SALES OF NET ELECTRICITY TO REGULATED  
14      PUBLIC UTILITIES TREATED AS SALES TO UNRELATED  
15      PERSONS.—Paragraph (4) of section 45(e) is amended by  
16      adding at the end the following new sentence: “The net  
17      amount of electricity sold by any taxpayer to a regulated  
18      public utility (as defined in section 7701(a)(33)) shall be  
19      treated as sold to an unrelated person.”.

20      (f) MODIFICATION OF RULES FOR HYDROPOWER  
21      PRODUCTION.—Subparagraph (C) of section 45(c)(8) is  
22      amended to read as follows:

23           “(C) NONHYDROELECTRIC DAM.—For pur-  
24       poses of subparagraph (A), a facility is de-  
25       scribed in this subparagraph if—

1 “(i) the hydroelectric project installed  
2 on the nonhydroelectric dam is licensed by  
3 the Federal Energy Regulatory Commis-  
4 sion and meets all other applicable environ-  
5 mental, licensing, and regulatory require-  
6 ments,

7 “(ii) the nonhydroelectric dam was  
8 placed in service before the date of the en-  
9 actment of this paragraph and operated  
10 for flood control, navigation, or water sup-  
11 ply purposes and did not produce hydro-  
12 electric power on the date of the enactment  
13 of this paragraph, and

14 “(iii) the hydroelectric project is oper-  
15 ated so that the water surface elevation at  
16 any given location and time that would  
17 have occurred in the absence of the hydro-  
18 electric project is maintained, subject to  
19 any license requirements imposed under  
20 applicable law that change the water sur-  
21 face elevation for the purpose of improving  
22 environmental quality of the affected wa-  
23 terway.

24 The Secretary, in consultation with the Federal  
25 Energy Regulatory Commission, shall certify if

1           a hydroelectric project licensed at a nonhydro-  
2           electric dam meets the criteria in clause (iii).  
3           Nothing in this section shall affect the stand-  
4           ards under which the Federal Energy Regu-  
5           latory Commission issues licenses for and regu-  
6           lates hydropower projects under part I of the  
7           Federal Power Act.”.

8           (g) EFFECTIVE DATE.—

9           (1) IN GENERAL.—Except as otherwise pro-  
10          vided in this subsection, the amendments made by  
11          this section shall apply to property originally placed  
12          in service after December 31, 2008.

13          (2) REPEAL OF CREDIT PHASEOUT.—The  
14          amendments made by subsection (b)(1) shall apply  
15          to taxable years ending after December 31, 2008.

16          (3) LIMITATION BASED ON INVESTMENT IN FA-  
17          CILITY.—The amendment made by subsection (b)(2)  
18          shall apply to property originally placed in service  
19          after December 31, 2009.

20          (4) TRASH FACILITY CLARIFICATION; SALES TO  
21          RELATED REGULATED PUBLIC UTILITIES.—The  
22          amendments made by subsections (c) and (e) shall  
23          apply to electricity produced and sold after the date  
24          of the enactment of this Act.



1           (5) EXPANSION OF BIOMASS FACILITIES.—The  
 2           amendments made by subsection (d) shall apply to  
 3           property placed in service after the date of the en-  
 4           actment of this Act.

5   **SEC. 552. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
 6           **DUCTION FROM MARINE RENEWABLES.**

7           (a) IN GENERAL.—Paragraph (1) of section 45(c) is  
 8           amended by striking “and” at the end of subparagraph  
 9           (G), by striking the period at the end of subparagraph  
 10          (H) and inserting “, and”, and by adding at the end the  
 11          following new subparagraph:

12                   “(I) marine and hydrokinetic renewable en-  
 13                   ergy.”.

14          (b) MARINE RENEWABLES.—Subsection (c) of sec-  
 15          tion 45 is amended by adding at the end the following  
 16          new paragraph:

17                   “(10) MARINE AND HYDROKINETIC RENEW-  
 18                   ABLE ENERGY.—

19                   “(A) IN GENERAL.—The term ‘marine and  
 20                   hydrokinetic renewable energy’ means energy  
 21                   derived from—

22                           “(i) waves, tides, and currents in  
 23                           oceans, estuaries, and tidal areas,

24                           “(ii) free flowing water in rivers,  
 25                           lakes, and streams,

1 “(iii) free flowing water in an irriga-  
 2 tion system, canal, or other man-made  
 3 channel, including projects that utilize non-  
 4 mechanical structures to accelerate the  
 5 flow of water for electric power production  
 6 purposes, or

7 “(iv) differentials in ocean tempera-  
 8 ture (ocean thermal energy conversion).

9 “(B) EXCEPTIONS.—Such term shall not  
 10 include any energy which is derived from any  
 11 source which utilizes a dam, diversionary struc-  
 12 ture (except as provided in subparagraph  
 13 (A)(iii)), or impoundment for electric power  
 14 production purposes.”.

15 (c) DEFINITION OF FACILITY.—Subsection (d) of  
 16 section 45 is amended by adding at the end the following  
 17 new paragraph:

18 “(11) MARINE AND HYDROKINETIC RENEW-  
 19 ABLE ENERGY FACILITIES.—In the case of a facility  
 20 producing electricity from marine and hydrokinetic  
 21 renewable energy, the term ‘qualified facility’ means  
 22 any facility owned by the taxpayer—

23 “(A) which has a nameplate capacity rat-  
 24 ing of at least 150 kilowatts, and

1           “(B) which is originally placed in service  
2           on or after the date of the enactment of this  
3           paragraph and before January 1, 2012.”.

4           (d) CREDIT RATE.—Subparagraph (A) of section  
5 45(b)(4) is amended by striking “or (9)” and inserting  
6 “(9), or (11)”.

7           (e) COORDINATION WITH SMALL IRRIGATION  
8 POWER.—Paragraph (5) of section 45(d), as amended by  
9 section 101, is amended by striking “January 1, 2012”  
10 and inserting “the date of the enactment of paragraph  
11 (11)”.

12          (f) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to electricity produced and sold  
14 after the date of the enactment of this Act, in taxable  
15 years ending after such date.

16 **SEC. 553. ENERGY CREDIT.**

17          (a) EXTENSION OF CREDIT.—

18               (1) SOLAR ENERGY PROPERTY.—Paragraphs  
19               (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each  
20               amended by striking “January 1, 2009” and insert-  
21               ing “January 1, 2015”.

22               (2) FUEL CELL PROPERTY.—Subparagraph (E)  
23               of section 48(c)(1) is amended by striking “Decem-  
24               ber 31, 2008” and inserting “December 31, 2014”.

1           (3) MICROTURBINE PROPERTY.—Subparagraph  
2           (E) of section 48(c)(2) is amended by striking “De-  
3           cember 31, 2008” and inserting “December 31,  
4           2014”.

5           (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
6           TERNATIVE MINIMUM TAX.—Subparagraph (B) of section  
7           38(c)(4) is amended by striking “and” at the end of clause  
8           (iii), by redesignating clause (iv) as clause (v), and by in-  
9           serting after clause (iii) the following new clause:

10                           “(iv) the credit determined under sec-  
11                           tion 46 to the extent that such credit is at-  
12                           tributable to the energy credit determined  
13                           under section 48, and”.

14           (c) ENERGY CREDIT FOR COMBINED HEAT AND  
15           POWER SYSTEM PROPERTY.—

16           (1) IN GENERAL.—Section 48(a)(3)(A) (defin-  
17           ing energy property) is amended by striking “or” at  
18           the end of clause (iii), by inserting “or” at the end  
19           of clause (iv), and by adding at the end the following  
20           new clause:

21                           “(v) combined heat and power system  
22                           property,”.

23           (2) COMBINED HEAT AND POWER SYSTEM  
24           PROPERTY.—Section 48 is amended by adding at  
25           the end the following new subsection:

1 “(d) COMBINED HEAT AND POWER SYSTEM PROP-  
2 erty.—For purposes of subsection (a)(3)(A)(v)—

3 “(1) COMBINED HEAT AND POWER SYSTEM  
4 PROPERTY.—The term ‘combined heat and power  
5 system property’ means property comprising a sys-  
6 tem—

7 “(A) which uses the same energy source  
8 for the simultaneous or sequential generation of  
9 electrical power, mechanical shaft power, or  
10 both, in combination with the generation of  
11 steam or other forms of useful thermal energy  
12 (including heating and cooling applications),

13 “(B) which produces—

14 “(i) at least 20 percent of its total  
15 useful energy in the form of thermal en-  
16 ergy which is not used to produce electrical  
17 or mechanical power (or combination  
18 thereof), and

19 “(ii) at least 20 percent of its total  
20 useful energy in the form of electrical or  
21 mechanical power (or combination thereof),

22 “(C) the energy efficiency percentage of  
23 which exceeds 60 percent, and

24 “(D) which is placed in service before Jan-  
25 uary 1, 2015.

1 “(2) LIMITATION.—

2 “(A) IN GENERAL.—In the case of com-  
3 bined heat and power system property with an  
4 electrical capacity in excess of the applicable ca-  
5 pacity placed in service during the taxable year,  
6 the credit under subsection (a)(1) (determined  
7 without regard to this paragraph) for such year  
8 shall be equal to the amount which bears the  
9 same ratio to such credit as the applicable ca-  
10 pacity bears to the capacity of such property.

11 “(B) APPLICABLE CAPACITY.—For pur-  
12 poses of subparagraph (A), the term ‘applicable  
13 capacity’ means 15 megawatts or a mechanical  
14 energy capacity of more than 20,000 horse-  
15 power or an equivalent combination of electrical  
16 and mechanical energy capacities.

17 “(C) MAXIMUM CAPACITY.—The term  
18 ‘combined heat and power system property’  
19 shall not include any property comprising a sys-  
20 tem if such system has a capacity in excess of  
21 50 megawatts or a mechanical energy capacity  
22 in excess of 67,000 horsepower or an equivalent  
23 combination of electrical and mechanical energy  
24 capacities.

25 “(3) SPECIAL RULES.—

1           “(A) ENERGY EFFICIENCY PERCENT-  
2           AGE.—For purposes of this subsection, the en-  
3           ergy efficiency percentage of a system is the  
4           fraction—

5                   “(i) the numerator of which is the  
6                   total useful electrical, thermal, and me-  
7                   chanical power produced by the system at  
8                   normal operating rates, and expected to be  
9                   consumed in its normal application, and

10                   “(ii) the denominator of which is the  
11                   lower heating value of the fuel sources for  
12                   the system.

13           “(B) DETERMINATIONS MADE ON BTU  
14           BASIS.—The energy efficiency percentage and  
15           the percentages under paragraph (1)(B) shall  
16           be determined on a Btu basis.

17           “(C) INPUT AND OUTPUT PROPERTY NOT  
18           INCLUDED.—The term ‘combined heat and  
19           power system property’ does not include prop-  
20           erty used to transport the energy source to the  
21           facility or to distribute energy produced by the  
22           facility.

23           “(4) SYSTEMS USING BIOMASS.—If a system is  
24           designed to use biomass (within the meaning of  
25           paragraphs (2) and (3) of section 45(c) without re-

1       gard to the last sentence of paragraph (3)(A)) for at  
2       least 90 percent of the energy source—

3               “(A) paragraph (1)(C) shall not apply, but

4               “(B) the amount of credit determined  
5       under subsection (a) with respect to such sys-  
6       tem shall not exceed the amount which bears  
7       the same ratio to such amount of credit (deter-  
8       mined without regard to this paragraph) as the  
9       energy efficiency percentage of such system  
10      bears to 60 percent.”.

11      (d) INCREASE OF CREDIT LIMITATION FOR FUEL  
12      CELL PROPERTY.—Subparagraph (B) of section 48(c)(1)  
13      is amended by striking “\$500” and inserting “\$1,500”.

14      (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-  
15      COUNT.—

16              (1) IN GENERAL.—Paragraph (3) of section  
17      48(a) is amended by striking the second sentence  
18      thereof.

19              (2) CONFORMING AMENDMENTS.—

20              (A) Paragraph (1) of section 48(c) is  
21      amended by striking subparagraph (D) and re-  
22      designating subparagraph (E) as subparagraph  
23      (D).

24              (B) Paragraph (2) of section 48(c) is  
25      amended by striking subparagraph (D) and re-



1           designating subparagraph (E) as subparagraph  
2           (D).

3           (f) EFFECTIVE DATE.—

4           (1) IN GENERAL.—Except as otherwise pro-  
5           vided in this subsection, the amendments made by  
6           this section shall take effect on the date of the en-  
7           actment of this Act.

8           (2) ALLOWANCE AGAINST ALTERNATIVE MIN-  
9           IMUM TAX.—The amendments made by subsection  
10          (b) shall apply to credits determined under section  
11          46 of the Internal Revenue Code of 1986 in taxable  
12          years beginning after the date of the enactment of  
13          this Act and to carrybacks of such credits.

14          (3) COMBINED HEAT AND POWER AND FUEL  
15          CELL PROPERTY.—The amendments made by sub-  
16          sections (c) and (d) shall apply to periods after the  
17          date of the enactment of this Act, in taxable years  
18          ending after such date, under rules similar to the  
19          rules of section 48(m) of the Internal Revenue Code  
20          of 1986 (as in effect on the day before the date of  
21          the enactment of the Revenue Reconciliation Act of  
22          1990).

23          (4) PUBLIC UTILITY PROPERTY.—The amend-  
24          ments made by subsection (e) shall apply to periods  
25          after February 13, 2008, in taxable years ending

1 after such date, under rules similar to the rules of  
2 section 48(m) of the Internal Revenue Code of 1986  
3 (as in effect on the day before the date of the enact-  
4 ment of the Revenue Reconciliation Act of 1990).

5 **SEC. 554. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
6 **PROPERTY.**

7 (a) EXTENSION.—Section 25D(g) is amended by  
8 striking “December 31, 2008” and inserting “December  
9 31, 2014”.

10 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-  
11 erty.—

12 (1) IN GENERAL.—Section 25D(b)(1)(A) is  
13 amended by striking “\$2,000” and inserting  
14 “\$4,000”.

15 (2) CONFORMING AMENDMENT.—Section  
16 25D(e)(4)(A)(i) is amended by striking “\$6,667”  
17 and inserting “\$13,333”.

18 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

19 (1) IN GENERAL.—Section 25D(a) is amended  
20 by striking “and” at the end of paragraph (2), by  
21 striking the period at the end of paragraph (3) and  
22 inserting “, and”, and by adding at the end the fol-  
23 lowing new paragraph:

1           “(4) 30 percent of the qualified small wind en-  
2           ergy property expenditures made by the taxpayer  
3           during such year.”.

4           (2) LIMITATION.—Section 25D(b)(1) is amend-  
5           ed by striking “and” at the end of subparagraph  
6           (B), by striking the period at the end of subpara-  
7           graph (C) and inserting “, and”, and by adding at  
8           the end the following new subparagraph:

9                   “(D) \$500 with respect to each half kilo-  
10                  watt of capacity (not to exceed \$4,000) of wind  
11                  turbines for which qualified small wind energy  
12                  property expenditures are made.”.

13           (3) QUALIFIED SMALL WIND ENERGY PROP-  
14           ERTY EXPENDITURES.—

15                  (A) IN GENERAL.—Section 25D(d) is  
16                  amended by adding at the end the following  
17                  new paragraph:

18                   “(4) QUALIFIED SMALL WIND ENERGY PROP-  
19                  ERTY EXPENDITURE.—The term ‘qualified small  
20                  wind energy property expenditure’ means an expend-  
21                  iture for property which uses a wind turbine to gen-  
22                  erate electricity for use in connection with a dwelling  
23                  unit located in the United States and used as a resi-  
24                  dence by the taxpayer.”.

1 (B) NO DOUBLE BENEFIT.—Section  
 2 45(d)(1) is amended by adding at the end the  
 3 following new sentence: “Such term shall not  
 4 include any facility with respect to which any  
 5 qualified small wind energy property expendi-  
 6 ture (as defined in subsection (d)(4) of section  
 7 25D) is taken into account in determining the  
 8 credit under such section.”.

9 (4) MAXIMUM EXPENDITURES IN CASE OF  
 10 JOINT OCCUPANCY.—Section 25D(e)(4)(A) is  
 11 amended by striking “and” at the end of clause (ii),  
 12 by striking the period at the end of clause (iii) and  
 13 inserting “, and”, and by adding at the end the fol-  
 14 lowing new clause:

15 “(iv) \$1,667 in the case of each half  
 16 kilowatt of capacity (not to exceed  
 17 \$13,333) of wind turbines for which quali-  
 18 fied small wind energy property expendi-  
 19 tures are made.”.

20 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-  
 21 TEMS.—

22 (1) IN GENERAL.—Section 25D(a), as amended  
 23 by subsection (c), is amended by striking “and” at  
 24 the end of paragraph (3), by striking the period at

1 the end of paragraph (4) and inserting “, and”, and  
 2 by adding at the end the following new paragraph:

3 “(5) 30 percent of the qualified geothermal  
 4 heat pump property expenditures made by the tax-  
 5 payer during such year.”.

6 (2) LIMITATION.—Section 25D(b)(1), as  
 7 amended by subsection (c), is amended by striking  
 8 “and” at the end of subparagraph (C), by striking  
 9 the period at the end of subparagraph (D) and in-  
 10 serting “, and”, and by adding at the end the fol-  
 11 lowing new subparagraph:

12 “(E) \$2,000 with respect to any qualified  
 13 geothermal heat pump property expenditures.”.

14 (3) QUALIFIED GEOTHERMAL HEAT PUMP  
 15 PROPERTY EXPENDITURE.—Section 25D(d), as  
 16 amended by subsection (c), is amended by adding at  
 17 the end the following new paragraph:

18 “(5) QUALIFIED GEOTHERMAL HEAT PUMP  
 19 PROPERTY EXPENDITURE.—

20 “(A) IN GENERAL.—The term ‘qualified  
 21 geothermal heat pump property expenditure’  
 22 means an expenditure for qualified geothermal  
 23 heat pump property installed on or in connec-  
 24 tion with a dwelling unit located in the United  
 25 States and used as a residence by the taxpayer.

1                   “(B) QUALIFIED GEOTHERMAL HEAT  
2 PUMP PROPERTY.—The term ‘qualified geo-  
3 thermal heat pump property’ means any equip-  
4 ment which—

5                   “(i) uses the ground or ground water  
6 as a thermal energy source to heat the  
7 dwelling unit referred to in subparagraph  
8 (A) or as a thermal energy sink to cool  
9 such dwelling unit, and

10                  “(ii) meets the requirements of the  
11 Energy Star program which are in effect  
12 at the time that the expenditure for such  
13 equipment is made.”.

14                  (4) MAXIMUM EXPENDITURES IN CASE OF  
15 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as  
16 amended by subsection (c), is amended by striking  
17 “and” at the end of clause (iii), by striking the pe-  
18 riod at the end of clause (iv) and inserting “, and”,  
19 and by adding at the end the following new clause:

20                   “(v) \$6,667 in the case of any quali-  
21 fied geothermal heat pump property ex-  
22 penditures.”.

23                  (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
24 IMUM TAX.—

1           (1) IN GENERAL.—Subsection (c) of section  
2       25D is amended to read as follows:

3       “(c) LIMITATION BASED ON AMOUNT OF TAX;  
4 CARRYFORWARD OF UNUSED CREDIT.—

5           “(1) LIMITATION BASED ON AMOUNT OF  
6 TAX.—In the case of a taxable year to which section  
7 26(a)(2) does not apply, the credit allowed under  
8 subsection (a) for the taxable year shall not exceed  
9 the excess of—

10           “(A) the sum of the regular tax liability  
11       (as defined in section 26(b)) plus the tax im-  
12       posed by section 55, over

13           “(B) the sum of the credits allowable  
14       under this subpart (other than this section) and  
15       section 27 for the taxable year.

16       “(2) CARRYFORWARD OF UNUSED CREDIT.—

17           “(A) RULE FOR YEARS IN WHICH ALL  
18       PERSONAL CREDITS ALLOWED AGAINST REG-  
19       ULAR AND ALTERNATIVE MINIMUM TAX.—In  
20       the case of a taxable year to which section  
21       26(a)(2) applies, if the credit allowable under  
22       subsection (a) exceeds the limitation imposed by  
23       section 26(a)(2) for such taxable year reduced  
24       by the sum of the credits allowable under this  
25       subpart (other than this section), such excess

1 shall be carried to the succeeding taxable year  
2 and added to the credit allowable under sub-  
3 section (a) for such succeeding taxable year.

4 “(B) RULE FOR OTHER YEARS.—In the  
5 case of a taxable year to which section 26(a)(2)  
6 does not apply, if the credit allowable under  
7 subsection (a) exceeds the limitation imposed by  
8 paragraph (1) for such taxable year, such ex-  
9 cess shall be carried to the succeeding taxable  
10 year and added to the credit allowable under  
11 subsection (a) for such succeeding taxable  
12 year.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 23(b)(4)(B) is amended by in-  
15 serting “and section 25D” after “this section”.

16 (B) Section 24(b)(3)(B) is amended by  
17 striking “and 25B” and inserting “, 25B, and  
18 25D”.

19 (C) Section 25B(g)(2) is amended by strik-  
20 ing “section 23” and inserting “sections 23 and  
21 25D”.

22 (D) Section 26(a)(1) is amended by strik-  
23 ing “and 25B” and inserting “25B, and 25D”.

24 (f) EFFECTIVE DATE.—



1           (1) IN GENERAL.—The amendments made by  
2           this section shall apply to taxable years beginning  
3           after December 31, 2007.

4           (2) APPLICATION OF EGTRRA SUNSET.—The  
5           amendments made by subparagraphs (A) and (B) of  
6           subsection (e)(2) shall be subject to title IX of the  
7           Economic Growth and Tax Relief Reconciliation Act  
8           of 2001 in the same manner as the provisions of  
9           such Act to which such amendments relate.

10 **SEC. 555. SPECIAL RULE TO IMPLEMENT FERC AND STATE**  
11 **ELECTRIC RESTRUCTURING POLICY.**

12           (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-  
13 TIES.—

14           (1) IN GENERAL.—Paragraph (3) of section  
15           451(i) is amended by inserting “(before January 1,  
16           2010, in the case of a qualified electric utility)”  
17           after “January 1, 2008”.

18           (2) QUALIFIED ELECTRIC UTILITY.—Subsection  
19           (i) of section 451 is amended by redesignating para-  
20           graphs (6) through (10) as paragraphs (7) through  
21           (11), respectively, and by inserting after paragraph  
22           (5) the following new paragraph:

23           “(6) QUALIFIED ELECTRIC UTILITY.—For pur-  
24           poses of this subsection, the term ‘qualified electric  
25           utility’ means a person that, as of the date of the

1       qualifying electric transmission transaction, is  
 2       vertically integrated, in that it is both—

3               “(A) a transmitting utility (as defined in  
 4               section 3(23) of the Federal Power Act (16  
 5               U.S.C. 796(23))) with respect to the trans-  
 6               mission facilities to which the election under  
 7               this subsection applies, and

8               “(B) an electric utility (as defined in sec-  
 9               tion 3(22) of the Federal Power Act (16 U.S.C.  
 10              796(22))).”.

11       (b) EXTENSION OF PERIOD FOR TRANSFER OF  
 12       OPERATIONAL CONTROL AUTHORIZED BY FERC.—  
 13       Clause (ii) of section 451(i)(4)(B) is amended by striking  
 14       “December 31, 2007” and inserting “the date which is  
 15       4 years after the close of the taxable year in which the  
 16       transaction occurs”.

17       (c) PROPERTY LOCATED OUTSIDE THE UNITED  
 18       STATES NOT TREATED AS EXEMPT UTILITY PROP-  
 19       ERTY.—Paragraph (5) of section 451(i) is amended by  
 20       adding at the end the following new subparagraph:

21               “(C) EXCEPTION FOR PROPERTY LOCATED  
 22               OUTSIDE THE UNITED STATES.—The term ‘ex-  
 23               empt utility property’ shall not include any  
 24               property which is located outside the United  
 25               States.”.

1 (d) EFFECTIVE DATES.—

2 (1) EXTENSION.—The amendments made by  
3 subsection (a) shall apply to transactions after De-  
4 cember 31, 2007.

5 (2) TRANSFERS OF OPERATIONAL CONTROL.—  
6 The amendment made by subsection (b) shall take  
7 effect as if included in section 909 of the American  
8 Jobs Creation Act of 2004.

9 (3) EXCEPTION FOR PROPERTY LOCATED OUT-  
10 SIDE THE UNITED STATES.—The amendment made  
11 by subsection (c) shall apply to transactions after  
12 the date of the enactment of this Act.

13 **SEC. 556. NEW CLEAN RENEWABLE ENERGY BONDS.**

14 (a) IN GENERAL.—Subpart I of part IV of sub-  
15 chapter A of chapter 1 is amended by adding at the end  
16 the following new section:

17 **“SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.**

18 **“(a) NEW CLEAN RENEWABLE ENERGY BOND.—**For  
19 purposes of this subpart, the term ‘new clean renewable  
20 energy bond’ means any bond issued as part of an issue  
21 if—

22 **“(1)** 100 percent of the available project pro-  
23 ceeds of such issue are to be used for capital expend-  
24 itures incurred by public power providers or coopera-

1       tive electric companies for one or more qualified re-  
2       newable energy facilities,

3               “(2) the bond is issued by a qualified issuer,  
4       and

5               “(3) the issuer designates such bond for pur-  
6       poses of this section.

7       “(b) REDUCED CREDIT AMOUNT.—The annual credit  
8       determined under section 54A(b) with respect to any new  
9       clean renewable energy bond shall be 70 percent of the  
10      amount so determined without regard to this subsection.

11      “(c) LIMITATION ON AMOUNT OF BONDS DES-  
12      IGNATED.—

13              “(1) IN GENERAL.—The maximum aggregate  
14      face amount of bonds which may be designated  
15      under subsection (a) by any issuer shall not exceed  
16      the limitation amount allocated under this sub-  
17      section to such issuer.

18              “(2) NATIONAL LIMITATION ON AMOUNT OF  
19      BONDS DESIGNATED.—There is a national new clean  
20      renewable energy bond limitation of \$2,000,000,000  
21      which shall be allocated by the Secretary as provided  
22      in paragraph (3), except that—

23                      “(A) not more than 33 $\frac{1}{3}$  percent thereof  
24                      may be allocated to qualified projects of public  
25                      power providers,

1           “(B) not more than  $33\frac{1}{3}$  percent thereof  
2           may be allocated to qualified projects of govern-  
3           mental bodies, and

4           “(C) not more than  $33\frac{1}{3}$  percent thereof  
5           may be allocated to qualified projects of cooper-  
6           ative electric companies.

7           “(3) METHOD OF ALLOCATION.—

8           “(A) ALLOCATION AMONG PUBLIC POWER  
9           PROVIDERS.—After the Secretary determines  
10          the qualified projects of public power providers  
11          which are appropriate for receiving an alloca-  
12          tion of the national new clean renewable energy  
13          bond limitation, the Secretary shall, to the max-  
14          imum extent practicable, make allocations  
15          among such projects in such manner that the  
16          amount allocated to each such project bears the  
17          same ratio to the cost of such project as the  
18          limitation under paragraph (2)(A) bears to the  
19          cost of all such projects.

20          “(B) ALLOCATION AMONG GOVERNMENTAL  
21          BODIES AND COOPERATIVE ELECTRIC COMPA-  
22          NIES.—The Secretary shall make allocations of  
23          the amount of the national new clean renewable  
24          energy bond limitation described in paragraphs  
25          (2)(B) and (2)(C) among qualified projects of

1           governmental bodies and cooperative electric  
2           companies, respectively, in such manner as the  
3           Secretary determines appropriate.

4           “(d) DEFINITIONS.—For purposes of this section—

5           “(1) QUALIFIED RENEWABLE ENERGY FACIL-  
6           ITY.—The term ‘qualified renewable energy facility’  
7           means a qualified facility (as determined under sec-  
8           tion 45(d) without regard to paragraphs (8) and  
9           (10) thereof and to any placed in service date)  
10          owned by a public power provider, a governmental  
11          body, or a cooperative electric company.

12          “(2) PUBLIC POWER PROVIDER.—The term  
13          ‘public power provider’ means a State utility with a  
14          service obligation, as such terms are defined in sec-  
15          tion 217 of the Federal Power Act (as in effect on  
16          the date of the enactment of this paragraph).

17          “(3) GOVERNMENTAL BODY.—The term ‘gov-  
18          ernmental body’ means any State or Indian tribal  
19          government, or any political subdivision thereof.

20          “(4) COOPERATIVE ELECTRIC COMPANY.—The  
21          term ‘cooperative electric company’ means a mutual  
22          or cooperative electric company described in section  
23          501(c)(12) or section 1381(a)(2)(C).

24          “(5) CLEAN RENEWABLE ENERGY BOND LEND-  
25          ER.—The term ‘clean renewable energy bond lender’

1 means a lender which is a cooperative which is  
 2 owned by, or has outstanding loans to, 100 or more  
 3 cooperative electric companies and is in existence on  
 4 February 1, 2002, and shall include any affiliated  
 5 entity which is controlled by such lender.

6 “(6) QUALIFIED ISSUER.—The term ‘qualified  
 7 issuer’ means a public power provider, a cooperative  
 8 electric company, a governmental body, a clean re-  
 9 newable energy bond lender, or a not-for-profit elec-  
 10 tric utility which has received a loan or loan guar-  
 11 antee under the Rural Electrification Act.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Paragraph (1) of section 54A(d) is amended  
 14 to read as follows:

15 “(1) QUALIFIED TAX CREDIT BOND.—The term  
 16 ‘qualified tax credit bond’ means—

17 “(A) a qualified forestry conservation  
 18 bond, or

19 “(B) a new clean renewable energy bond,  
 20 which is part of an issue that meets requirements of  
 21 paragraphs (2), (3), (4), (5), and (6).”.

22 (2) Subparagraph (C) of section 54A(d)(2) is  
 23 amended to read as follows:

1                   “(C) QUALIFIED PURPOSE.—For purposes  
2                   of this paragraph, the term ‘qualified purpose’  
3                   means—

4                   “(i) in the case of a qualified forestry  
5                   conservation bond, a purpose specified in  
6                   section 54B(e), and

7                   “(ii) in the case of a new clean renew-  
8                   able energy bond, a purpose specified in  
9                   section 54C(a)(1).”.

10                  (3) The table of sections for subpart I of part  
11                  IV of subchapter A of chapter 1 is amended by add-  
12                  ing at the end the following new item:

“Sec. 54C. New clean renewable energy bonds.”.

13                  (c) APPLICATION OF CERTAIN LABOR STANDARDS  
14                  ON PROJECTS FINANCED UNDER TAX CREDIT BONDS.—  
15                  Subchapter IV of chapter 31 of title 40, United States  
16                  Code, shall apply to projects financed with the proceeds  
17                  of any tax credit bond (as defined in section 54A of the  
18                  Internal Revenue Code of 1986) other than qualified for-  
19                  estry conservation bonds (as defined in section 54B of  
20                  such Code).

21                  (d) EFFECTIVE DATE.—The amendments made by  
22                  this section shall apply to obligations issued after the date  
23                  of the enactment of this Act.



1           **Subpart B—Carbon Mitigation Provisions**

2   **SEC. 561. EXPANSION AND MODIFICATION OF ADVANCED**  
3           **COAL PROJECT INVESTMENT CREDIT.**

4           (a) **MODIFICATION OF CREDIT AMOUNT.**—Section  
5 48A(a) is amended by striking “and” at the end of para-  
6 graph (1), by striking the period at the end of paragraph  
7 (2) and inserting “, and”, and by adding at the end the  
8 following new paragraph:

9                   “(3) 30 percent of the qualified investment for  
10 such taxable year in the case of projects described  
11 in clause (iii) of subsection (d)(3)(B).”.

12          (b) **EXPANSION OF AGGREGATE CREDITS.**—Section  
13 48A(d)(3)(A) is amended by striking “\$1,300,000,000”  
14 and inserting “\$2,550,000,000”.

15          (c) **AUTHORIZATION OF ADDITIONAL PROJECTS.**—

16               (1) **IN GENERAL.**—Subparagraph (B) of section  
17 48A(d)(3) is amended to read as follows:

18                   “(B) **PARTICULAR PROJECTS.**—Of the dol-  
19 lar amount in subparagraph (A), the Secretary  
20 is authorized to certify—

21                           “(i) \$800,000,000 for integrated gas-  
22 ification combined cycle projects the appli-  
23 cation for which is submitted during the  
24 period described in paragraph (2)(A)(i),

25                           “(ii) \$500,000,000 for projects which  
26 use other advanced coal-based generation

technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

“(iii) \$1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).”.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

“(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

“(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the

1 earlier of the termination of the period de-  
2 scribed in clause (i) or the date prescribed  
3 by the Secretary.”.

4 (3) CAPTURE AND SEQUESTRATION OF CARBON  
5 DIOXIDE EMISSIONS REQUIREMENT.—

6 (A) IN GENERAL.—Section 48A(e)(1) is  
7 amended by striking “and” at the end of sub-  
8 paragraph (E), by striking the period at the  
9 end of subparagraph (F) and inserting “; and”,  
10 and by adding at the end the following new sub-  
11 paragraph:

12 “(G) in the case of any project the applica-  
13 tion for which is submitted during the period  
14 described in subsection (d)(2)(A)(ii), the project  
15 includes equipment which separates and seques-  
16 ters at least 65 percent (70 percent in the case  
17 of an application for reallocated credits under  
18 subsection (d)(4)) of such project’s total carbon  
19 dioxide emissions.”.

20 (B) HIGHEST PRIORITY FOR PROJECTS  
21 WHICH SEQUESTER CARBON DIOXIDE EMIS-  
22 SIONS.—Section 48A(e)(3) is amended by strik-  
23 ing “and” at the end of subparagraph (A)(iii),  
24 by striking the period at the end of subpara-  
25 graph (B)(iii) and inserting “, and”, and by

1 adding at the end the following new subpara-  
 2 graph:

3 “(C) give highest priority to projects with  
 4 the greatest separation and sequestration per-  
 5 centage of total carbon dioxide emissions.”.

6 (C) RECAPTURE OF CREDIT FOR FAILURE  
 7 TO SEQUESTER.—Section 48A is amended by  
 8 adding at the end the following new subsection:

9 “(h) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
 10 QUESTER.—The Secretary shall provide for recapturing  
 11 the benefit of any credit allowable under subsection (a)  
 12 with respect to any project which fails to attain or main-  
 13 tain the separation and sequestration requirements of sub-  
 14 section (e)(1)(G).”.

15 (4) ADDITIONAL PRIORITY FOR RESEARCH  
 16 PARTNERSHIPS.—Section 48A(e)(3)(B), as amended  
 17 by paragraph (3)(B), is amended—

18 (A) by striking “and” at the end of clause

19 (ii),

20 (B) by redesignating clause (iii) as clause

21 (iv), and

22 (C) by inserting after clause (ii) the fol-  
 23 lowing new clause:

24 “(iii) applicant participants who have  
 25 a research partnership with an eligible edu-

1                    cational institution (as defined in section  
2                    529(e)(5)), and”.

3                    (5) CLERICAL AMENDMENT.—Section 48A(e)(3)  
4                    is amended by striking “INTEGRATED GASIFICATION  
5                    COMBINED CYCLE” in the heading and inserting  
6                    “CERTAIN”.

7                    (d) COMPETITIVE CERTIFICATION AWARDS MODI-  
8                    FICATION AUTHORITY.—Section 48A, as amended by sub-  
9                    section (c)(3), is amended by adding at the end the fol-  
10                    lowing new subsection:

11                    “(i) COMPETITIVE CERTIFICATION AWARDS MODI-  
12                    FICATION AUTHORITY.—In implementing this section or  
13                    section 48B, the Secretary is directed to modify the terms  
14                    of any competitive certification award and any associated  
15                    closing agreement where such modification—

16                    “(1) is consistent with the objectives of such  
17                    section,

18                    “(2) is requested by the recipient of the com-  
19                    petitive certification award, and

20                    “(3) involves moving the project site to improve  
21                    the potential to capture and sequester carbon dioxide  
22                    emissions, reduce costs of transporting feedstock,  
23                    and serve a broader customer base,

24                    unless the Secretary determines that the dollar amount  
25                    of tax credits available to the taxpayer under such section

1 would increase as a result of the modification or such  
 2 modification would result in such project not being origi-  
 3 nally certified. In considering any such modification, the  
 4 Secretary shall consult with other relevant Federal agen-  
 5 cies, including the Department of Energy.”.

6 (e) DISCLOSURE OF ALLOCATIONS.—Section 48A(d)  
 7 is amended by adding at the end the following new para-  
 8 graph:

9 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
 10 retary shall, upon making a certification under this  
 11 subsection or section 48B(d), publicly disclose the  
 12 identity of the applicant and the amount of the cred-  
 13 it certified with respect to such applicant.”.

14 (f) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as otherwise pro-  
 16 vided in this subsection, the amendments made by  
 17 this section shall apply to credits the application for  
 18 which is submitted during the period described in  
 19 section 48A(d)(2)(A)(ii) of the Internal Revenue  
 20 Code of 1986 and which are allocated or reallocated  
 21 after the date of the enactment of this Act.

22 (2) COMPETITIVE CERTIFICATION AWARDS  
 23 MODIFICATION AUTHORITY.—The amendment made  
 24 by subsection (d) shall take effect on the date of the  
 25 enactment of this Act and is applicable to all com-

1       petitive certification awards entered into under sec-  
 2       tion 48A or 48B of the Internal Revenue Code of  
 3       1986, whether such awards were issued before, on,  
 4       or after such date of enactment.

5           (3) DISCLOSURE OF ALLOCATIONS.—The  
 6       amendment made by subsection (e) shall apply to  
 7       certifications made after the date of the enactment  
 8       of this Act.

9           (4) CLERICAL AMENDMENT.—The amendment  
 10      made by subsection (c)(5) shall take effect as if in-  
 11      cluded in the amendment made by section 1307(b)  
 12      of the Energy Tax Incentives Act of 2005.

13   **SEC. 562. EXPANSION AND MODIFICATION OF COAL GASIFI-**  
 14                           **CATION INVESTMENT CREDIT.**

15       (a) MODIFICATION OF CREDIT AMOUNT.—Section  
 16   48B(a) is amended by inserting “(30 percent in the case  
 17   of credits allocated under subsection (d)(1)(B))” after “20  
 18   percent”.

19       (b) EXPANSION OF AGGREGATE CREDITS.—Section  
 20   48B(d)(1) is amended by striking “shall not exceed  
 21   \$350,000,000” and all that follows and inserting “shall  
 22   not exceed—

23                           “(A) \$350,000,000, plus

24                           “(B) \$250,000,000 for qualifying gasifi-  
 25       cation projects that include equipment which

1 separates and sequesters at least 75 percent of  
2 such project's total carbon dioxide emissions.”.

3 (c) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
4 QUESTER.—Section 48B is amended by adding at the end  
5 the following new subsection:

6 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
7 QUESTER.—The Secretary shall provide for recapturing  
8 the benefit of any credit allowable under subsection (a)  
9 with respect to any project which fails to attain or main-  
10 tain the separation and sequestration requirements for  
11 such project under subsection (d)(1).”.

12 (d) SELECTION PRIORITIES.—Section 48B(d) is  
13 amended by adding at the end the following new para-  
14 graph:

15 “(4) SELECTION PRIORITIES.—In determining  
16 which qualifying gasification projects to certify  
17 under this section, the Secretary shall—

18 “(A) give highest priority to projects with  
19 the greatest separation and sequestration per-  
20 centage of total carbon dioxide emissions, and

21 “(B) give high priority to applicant partici-  
22 pants who have a research partnership with an  
23 eligible educational institution (as defined in  
24 section 529(e)(5)).”.



1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to credits described in section  
3 48B(d)(1)(B) of the Internal Revenue Code of 1986 which  
4 are allocated or reallocated after the date of the enactment  
5 of this Act.

6 **SEC. 563. TEMPORARY INCREASE IN COAL EXCISE TAX.**

7       Paragraph (2) of section 4121(e) is amended—

8               (1) by striking “January 1, 2014” in subpara-  
9       graph (A) and inserting “December 31, 2018”, and

10              (2) by striking “January 1 after 1981” in sub-  
11       paragraph (B) and inserting “December 31 after  
12       2007”.

13 **SEC. 564. SPECIAL RULES FOR REFUND OF THE COAL EX-**  
14 **CISE TAX TO CERTAIN COAL PRODUCERS**  
15 **AND EXPORTERS.**

16       (a) REFUND.—

17               (1) COAL PRODUCERS.—

18                       (A) IN GENERAL.—Notwithstanding sub-  
19       sections (a)(1) and (c) of section 6416 and sec-  
20       tion 6511 of the Internal Revenue Code of  
21       1986, if—

22                               (i) a coal producer establishes that  
23                               such coal producer, or a party related to  
24                               such coal producer, exported coal produced  
25                               by such coal producer to a foreign country

1 or shipped coal produced by such coal pro-  
2 ducer to a possession of the United States,  
3 or caused such coal to be exported or  
4 shipped, the export or shipment of which  
5 was other than through an exporter who  
6 meets the requirements of paragraph (2),

7 (ii) such coal producer filed an excise  
8 tax return on or after October 1, 1990,  
9 and on or before the date of the enactment  
10 of this Act, and

11 (iii) such coal producer files a claim  
12 for refund with the Secretary not later  
13 than the close of the 30-day period begin-  
14 ning on the date of the enactment of this  
15 Act,

16 then the Secretary shall pay to such coal pro-  
17 ducer an amount equal to the tax paid under  
18 section 4121 of such Code on such coal ex-  
19 ported or shipped by the coal producer or a  
20 party related to such coal producer, or caused  
21 by the coal producer or a party related to such  
22 coal producer to be exported or shipped.

23 (B) SPECIAL RULES FOR CERTAIN TAX-  
24 PAYERS.—For purposes of this section—

1 (i) IN GENERAL.—If a coal producer  
2 or a party related to a coal producer has  
3 received a judgment described in clause  
4 (iii), such coal producer shall be deemed to  
5 have established the export of coal to a for-  
6 eign country or shipment of coal to a pos-  
7 session of the United States under sub-  
8 paragraph (A)(i).

9 (ii) AMOUNT OF PAYMENT.—If a tax-  
10 payer described in clause (i) is entitled to  
11 a payment under subparagraph (A), the  
12 amount of such payment shall be reduced  
13 by any amount paid pursuant to the judg-  
14 ment described in clause (iii).

15 (iii) JUDGMENT DESCRIBED.—A judg-  
16 ment is described in this subparagraph if  
17 such judgment—

18 (I) is made by a court of com-  
19 petent jurisdiction within the United  
20 States,

21 (II) relates to the constitu-  
22 tionality of any tax paid on exported  
23 coal under section 4121 of the Inter-  
24 nal Revenue Code of 1986, and

1 (III) is in favor of the coal pro-  
2 ducer or the party related to the coal  
3 producer.

4 (2) EXPORTERS.—Notwithstanding subsections  
5 (a)(1) and (c) of section 6416 and section 6511 of  
6 the Internal Revenue Code of 1986, and a judgment  
7 described in paragraph (1)(B)(iii) of this subsection,  
8 if—

9 (A) an exporter establishes that such ex-  
10 porter exported coal to a foreign country or  
11 shipped coal to a possession of the United  
12 States, or caused such coal to be so exported or  
13 shipped,

14 (B) such exporter filed a tax return on or  
15 after October 1, 1990, and on or before the  
16 date of the enactment of this Act, and

17 (C) such exporter files a claim for refund  
18 with the Secretary not later than the close of  
19 the 30-day period beginning on the date of the  
20 enactment of this Act,

21 then the Secretary shall pay to such exporter an  
22 amount equal to \$0.825 per ton of such coal ex-  
23 ported by the exporter or caused to be exported or  
24 shipped, or caused to be exported or shipped, by the  
25 exporter.

1       (b) LIMITATIONS.—Subsection (a) shall not apply  
2 with respect to exported coal if a settlement with the Fed-  
3 eral Government has been made with and accepted by, the  
4 coal producer, a party related to such coal producer, or  
5 the exporter, of such coal, as of the date that the claim  
6 is filed under this section with respect to such exported  
7 coal. For purposes of this subsection, the term “settlement  
8 with the Federal Government” shall not include any settle-  
9 ment or stipulation entered into as of the date of the en-  
10 actment of this Act, the terms of which contemplate a  
11 judgment concerning which any party has reserved the  
12 right to file an appeal, or has filed an appeal.

13       (c) SUBSEQUENT REFUND PROHIBITED.—No refund  
14 shall be made under this section to the extent that a credit  
15 or refund of such tax on such exported or shipped coal  
16 has been paid to any person.

17       (d) DEFINITIONS.—For purposes of this section—

18           (1) COAL PRODUCER.—The term “coal pro-  
19 ducer” means the person in whom is vested owner-  
20 ship of the coal immediately after the coal is severed  
21 from the ground, without regard to the existence of  
22 any contractual arrangement for the sale or other  
23 disposition of the coal or the payment of any royal-  
24 ties between the producer and third parties. The  
25 term includes any person who extracts coal from

1 coal waste refuse piles or from the silt waste product  
2 which results from the wet washing (or similar proc-  
3 essing) of coal.

4 (2) EXPORTER.—The term “exporter” means a  
5 person, other than a coal producer, who does not  
6 have a contract, fee arrangement, or any other  
7 agreement with a producer or seller of such coal to  
8 export or ship such coal to a third party on behalf  
9 of the producer or seller of such coal and—

10 (A) is indicated in the shipper’s export  
11 declaration or other documentation as the ex-  
12 porter of record, or

13 (B) actually exported such coal to a for-  
14 eign country or shipped such coal to a posses-  
15 sion of the United States, or caused such coal  
16 to be so exported or shipped.

17 (3) RELATED PARTY.—The term “a party re-  
18 lated to such coal producer” means a person who—

19 (A) is related to such coal producer  
20 through any degree of common management,  
21 stock ownership, or voting control,

22 (B) is related (within the meaning of sec-  
23 tion 144(a)(3) of the Internal Revenue Code of  
24 1986) to such coal producer, or

1 (C) has a contract, fee arrangement, or  
2 any other agreement with such coal producer to  
3 sell such coal to a third party on behalf of such  
4 coal producer.

5 (4) SECRETARY.—The term “Secretary” means  
6 the Secretary of Treasury or the Secretary’s des-  
7 ignee.

8 (e) TIMING OF REFUND.—With respect to any claim  
9 for refund filed pursuant to this section, the Secretary  
10 shall determine whether the requirements of this section  
11 are met not later than 180 days after such claim is filed.  
12 If the Secretary determines that the requirements of this  
13 section are met, the claim for refund shall be paid not  
14 later than 180 days after the Secretary makes such deter-  
15 mination.

16 (f) INTEREST.—Any refund paid pursuant to this  
17 section shall be paid by the Secretary with interest from  
18 the date of overpayment determined by using the overpay-  
19 ment rate and method under section 6621 of the Internal  
20 Revenue Code of 1986.

21 (g) DENIAL OF DOUBLE BENEFIT.—The payment  
22 under subsection (a) with respect to any coal shall not ex-  
23 ceed—

24 (1) in the case of a payment to a coal producer,  
25 the amount of tax paid under section 4121 of the

1 Internal Revenue Code of 1986 with respect to such  
2 coal by such coal producer or a party related to such  
3 coal producer, and

4 (2) in the case of a payment to an exporter, an  
5 amount equal to \$0.825 per ton with respect to such  
6 coal exported by the exporter or caused to be ex-  
7 ported by the exporter.

8 (h) APPLICATION OF SECTION.—This section applies  
9 only to claims on coal exported or shipped on or after Oc-  
10 tober 1, 1990, through the date of the enactment of this  
11 Act.

12 (i) STANDING NOT CONFERRED.—

13 (1) EXPORTERS.—With respect to exporters,  
14 this section shall not confer standing upon an ex-  
15 porter to commence, or intervene in, any judicial or  
16 administrative proceeding concerning a claim for re-  
17 fund by a coal producer of any Federal or State tax,  
18 fee, or royalty paid by the coal producer.

19 (2) COAL PRODUCERS.—With respect to coal  
20 producers, this section shall not confer standing  
21 upon a coal producer to commence, or intervene in,  
22 any judicial or administrative proceeding concerning  
23 a claim for refund by an exporter of any Federal or  
24 State tax, fee, or royalty paid by the producer and  
25 alleged to have been passed on to an exporter.



1 **SEC. 565. CARBON AUDIT OF THE TAX CODE.**

2 (a) STUDY.—The Secretary of the Treasury shall  
 3 enter into an agreement with the National Academy of  
 4 Sciences to undertake a comprehensive review of the Inter-  
 5 nal Revenue Code of 1986 to identify the types of and  
 6 specific tax provisions that have the largest effects on car-  
 7 bon and other greenhouse gas emissions and to estimate  
 8 the magnitude of those effects.

9 (b) REPORT.—Not later than 2 years after the date  
 10 of enactment of this Act, the National Academy of  
 11 Sciences shall submit to Congress a report containing the  
 12 results of study authorized under this section.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 14 authorized to be appropriated to carry out this section  
 15 \$1,500,000 for the period of fiscal years 2008 and 2009.

16 **Subpart C—Energy Conservation and Efficiency**

17 **SEC. 571. QUALIFIED ENERGY CONSERVATION BONDS.**

18 (a) IN GENERAL.—Subpart I of part IV of sub-  
 19 chapter A of chapter 1, as amended by this Act, is amend-  
 20 ed by adding at the end the following new section:

21 **“SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.**

22 “(a) QUALIFIED ENERGY CONSERVATION BOND.—  
 23 For purposes of this subchapter, the term ‘qualified en-  
 24 ergy conservation bond’ means any bond issued as part  
 25 of an issue if—

1           “(1) 100 percent of the available project pro-  
2       ceeds of such issue are to be used for one or more  
3       qualified conservation purposes,

4           “(2) the bond is issued by a State or local gov-  
5       ernment, and

6           “(3) the issuer designates such bond for pur-  
7       poses of this section.

8       “(b) REDUCED CREDIT AMOUNT.—The annual credit  
9       determined under section 54A(b) with respect to any  
10      qualified energy conservation bond shall be 70 percent of  
11      the amount so determined without regard to this sub-  
12      section.

13      “(c) LIMITATION ON AMOUNT OF BONDS DES-  
14      IGNATED.—The maximum aggregate face amount of  
15      bonds which may be designated under subsection (a) by  
16      any issuer shall not exceed the limitation amount allocated  
17      to such issuer under subsection (e).

18      “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS  
19      DESIGNATED.—There is a national qualified energy con-  
20      servation bond limitation of \$3,000,000,000.

21      “(e) ALLOCATIONS.—

22           “(1) IN GENERAL.—The limitation applicable  
23      under subsection (d) shall be allocated by the Sec-  
24      retary among the States in proportion to the popu-  
25      lation of the States.

1           “(2) ALLOCATIONS TO LARGEST LOCAL GOV-  
2       ERNMENTS.—

3           “(A) IN GENERAL.—In the case of any  
4       State in which there is a large local govern-  
5       ment, each such local government shall be allo-  
6       cated a portion of such State’s allocation which  
7       bears the same ratio to the State’s allocation  
8       (determined without regard to this subpara-  
9       graph) as the population of such large local  
10      government bears to the population of such  
11      State.

12          “(B) ALLOCATION OF UNUSED LIMITATION  
13      TO STATE.—The amount allocated under this  
14      subsection to a large local government may be  
15      reallocated by such local government to the  
16      State in which such local government is located.

17          “(C) LARGE LOCAL GOVERNMENT.—For  
18      purposes of this section, the term ‘large local  
19      government’ means any municipality or county  
20      if such municipality or county has a population  
21      of 100,000 or more.

22          “(3) ALLOCATION TO ISSUERS; RESTRICTION  
23      ON PRIVATE ACTIVITY BONDS.—Any allocation  
24      under this subsection to a State or large local gov-  
25      ernment shall be allocated by such State or large

1 local government to issuers within the State in a  
2 manner that results in not less than 70 percent of  
3 the allocation to such State or large local govern-  
4 ment being used to designate bonds which are not  
5 private activity bonds.

6 “(f) QUALIFIED CONSERVATION PURPOSE.—For  
7 purposes of this section—

8 “(1) IN GENERAL.—The term ‘qualified con-  
9 servation purpose’ means any of the following:

10 “(A) Capital expenditures incurred for  
11 purposes of—

12 “(i) reducing energy consumption in  
13 publicly owned buildings by at least 20  
14 percent,

15 “(ii) implementing green community  
16 programs,

17 “(iii) rural development involving the  
18 production of electricity from renewable  
19 energy resources, or

20 “(iv) any qualified facility (as deter-  
21 mined under section 45(d) without regard  
22 to paragraphs (8) and (10) thereof and  
23 without regard to any placed in service  
24 date).

1           “(B) Expenditures with respect to research  
2 facilities, and research grants, to support re-  
3 search in—

4           “(i) development of cellulosic ethanol  
5 or other nonfossil fuels,

6           “(ii) technologies for the capture and  
7 sequestration of carbon dioxide produced  
8 through the use of fossil fuels,

9           “(iii) increasing the efficiency of exist-  
10 ing technologies for producing nonfossil  
11 fuels,

12           “(iv) automobile battery technologies  
13 and other technologies to reduce fossil fuel  
14 consumption in transportation, or

15           “(v) technologies to reduce energy use  
16 in buildings.

17           “(C) Mass commuting facilities and related  
18 facilities that reduce the consumption of energy,  
19 including expenditures to reduce pollution from  
20 vehicles used for mass commuting.

21           “(D) Demonstration projects designed to  
22 promote the commercialization of—

23           “(i) green building technology,

1                   “(ii) conversion of agricultural waste  
2                   for use in the production of fuel or other-  
3                   wise,

4                   “(iii) advanced battery manufacturing  
5                   technologies,

6                   “(iv) technologies to reduce peak use  
7                   of electricity, or

8                   “(v) technologies for the capture and  
9                   sequestration of carbon dioxide emitted  
10                  from combusting fossil fuels in order to  
11                  produce electricity.

12                  “(E) Public education campaigns to pro-  
13                  mote energy efficiency.

14                  “(2) SPECIAL RULES FOR PRIVATE ACTIVITY  
15                  BONDS.—For purposes of this section, in the case of  
16                  any private activity bond, the term ‘qualified con-  
17                  servation purposes’ shall not include any expenditure  
18                  which is not a capital expenditure.

19                  “(g) POPULATION.—

20                  “(1) IN GENERAL.—The population of any  
21                  State or local government shall be determined for  
22                  purposes of this section as provided in section 146(j)  
23                  for the calendar year which includes the date of the  
24                  enactment of this section.

1           “(2) SPECIAL RULE FOR COUNTIES.—In deter-  
2       mining the population of any county for purposes of  
3       this section, any population of such county which is  
4       taken into account in determining the population of  
5       any municipality which is a large local government  
6       shall not be taken into account in determining the  
7       population of such county.

8           “(h) APPLICATION TO INDIAN TRIBAL GOVERN-  
9       MENTS.—An Indian tribal government shall be treated for  
10      purposes of this section in the same manner as a large  
11      local government, except that—

12           “(1) an Indian tribal government shall be treat-  
13      ed for purposes of subsection (e) as located within  
14      a State to the extent of so much of the population  
15      of such government as resides within such State,  
16      and

17           “(2) any bond issued by an Indian tribal gov-  
18      ernment shall be treated as a qualified energy con-  
19      servation bond only if issued as part of an issue the  
20      available project proceeds of which are used for pur-  
21      poses for which such Indian tribal government could  
22      issue bonds to which section 103(a) applies.”.

23           (b) CONFORMING AMENDMENTS.—

24           (1) Paragraph (1) of section 54A(d), as amend-  
25      ed by section 806, is amended by striking “or” at

1 the end of subparagraph (A), by adding “or” at the  
 2 end of subparagraph (B), and by inserting after sub-  
 3 paragraph (B) the following new subparagraph:

4 “(C) a qualified energy conservation  
 5 bond,”.

6 (2) Subparagraph (C) of section 54A(d)(2), as  
 7 amended by section 806, is amended by striking  
 8 “and” at the end of clause (i), by striking the period  
 9 at the end of clause (ii) and inserting “and”, and by  
 10 adding at the end the following new clause:

11 “(iii) in the case of a qualified energy  
 12 conservation bond, a purpose specified in  
 13 section 54D(a)(1).”.

14 (3) The table of sections for subpart I of part  
 15 IV of subchapter A of chapter 1, as amended by sec-  
 16 tion 806, is amended by adding at the end the fol-  
 17 lowing new item:

“Sec. 54D. Qualified energy conservation bonds.”.

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to obligations issued after the date  
 20 of the enactment of this Act.

21 **SEC. 572. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

22 (a) EXTENSION OF CREDIT.—Section 25C(g) is  
 23 amended by striking “December 31, 2007” and inserting  
 24 “December 31, 2008”.

25 (b) QUALIFIED BIOMASS FUEL PROPERTY.—



1 (1) IN GENERAL.—Section 25C(d)(3) is amend-  
2 ed—

3 (A) by striking “and” at the end of sub-  
4 paragraph (D),

5 (B) by striking the period at the end of  
6 subparagraph (E) and inserting “, and”, and

7 (C) by adding at the end the following new  
8 subparagraph:

9 “(F) a stove which uses the burning of bio-  
10 mass fuel to heat a dwelling unit located in the  
11 United States and used as a residence by the  
12 taxpayer, or to heat water for use in such a  
13 dwelling unit, and which has a thermal effi-  
14 ciency rating of at least 75 percent.”.

15 (2) BIOMASS FUEL.—Section 25C(d) is amend-  
16 ed by adding at the end the following new para-  
17 graph:

18 “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
19 means any plant-derived fuel available on a renew-  
20 able or recurring basis, including agricultural crops  
21 and trees, wood and wood waste and residues (in-  
22 cluding wood pellets), plants (including aquatic  
23 plants), grasses, residues, and fibers.”.

24 (c) COORDINATION WITH CREDIT FOR QUALIFIED  
25 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

1           (1) IN GENERAL.—Paragraph (3) of section  
2           25C(d), as amended by subsection (b), is amended  
3           by striking subparagraph (C) and by redesignating  
4           subparagraphs (D), (E), and (F) as subparagraphs  
5           (C), (D), and (E), respectively.

6           (2) CONFORMING AMENDMENT.—Subparagraph  
7           (C) of section 25C(d)(2) is amended to read as fol-  
8           lows:

9                   “(C) REQUIREMENTS AND STANDARDS  
10                  FOR AIR CONDITIONERS AND HEAT PUMPS.—  
11                  The standards and requirements prescribed by  
12                  the Secretary under subparagraph (B) with re-  
13                  spect to the energy efficiency ratio (EER) for  
14                  central air conditioners and electric heat  
15                  pumps—

16                       “(i) shall require measurements to be  
17                       based on published data which is tested by  
18                       manufacturers at 95 degrees Fahrenheit,  
19                       and

20                       “(ii) may be based on the certified  
21                       data of the Air Conditioning and Refrig-  
22                       eration Institute that are prepared in part-  
23                       nership with the Consortium for Energy  
24                       Efficiency.”.

1 (d) EFFECTIVE DATE.—The amendments made this  
 2 section shall apply to expenditures made after December  
 3 31, 2007.

4 **SEC. 573. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
 5 **DUCTION.**

6 Subsection (h) of section 179D is amended by strik-  
 7 ing “December 31, 2008” and inserting “December 31,  
 8 2013”.

9 **SEC. 574. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
 10 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
 11 **AFTER 2007.**

12 (a) IN GENERAL.—Subsection (b) of section 45M is  
 13 amended to read as follows:

14 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
 15 section (a)—

16 “(1) DISHWASHERS.—The applicable amount  
 17 is—

18 “(A) \$45 in the case of a dishwasher which  
 19 is manufactured in calendar year 2008 or 2009  
 20 and which uses no more than 324 kilowatt  
 21 hours per year and 5.8 gallons per cycle, and

22 “(B) \$75 in the case of a dishwasher  
 23 which is manufactured in calendar year 2008,  
 24 2009, or 2010 and which uses no more than  
 25 307 kilowatt hours per year and 5.0 gallons per

1 cycle (5.5 gallons per cycle for dishwashers de-  
2 signed for greater than 12 place settings).

3 “(2) CLOTHES WASHERS.—The applicable  
4 amount is—

5 “(A) \$75 in the case of a residential top-  
6 loading clothes washer manufactured in cal-  
7 endar year 2008 which meets or exceeds a 1.72  
8 modified energy factor and does not exceed a  
9 8.0 water consumption factor,

10 “(B) \$125 in the case of a residential top-  
11 loading clothes washer manufactured in cal-  
12 endar year 2008 or 2009 which meets or ex-  
13 ceeds a 1.8 modified energy factor and does not  
14 exceed a 7.5 water consumption factor,

15 “(C) \$150 in the case of a residential or  
16 commercial clothes washer manufactured in cal-  
17 endar year 2008, 2009, or 2010 which meets or  
18 exceeds 2.0 modified energy factor and does not  
19 exceed a 6.0 water consumption factor, and

20 “(D) \$250 in the case of a residential or  
21 commercial clothes washer manufactured in cal-  
22 endar year 2008, 2009, or 2010 which meets or  
23 exceeds 2.2 modified energy factor and does not  
24 exceed a 4.5 water consumption factor.

1           “(3) REFRIGERATORS.—The applicable amount  
2       is—

3           “(A) \$50 in the case of a refrigerator  
4       which is manufactured in calendar year 2008,  
5       and consumes at least 20 percent but not more  
6       than 22.9 percent less kilowatt hours per year  
7       than the 2001 energy conservation standards,

8           “(B) \$75 in the case of a refrigerator  
9       which is manufactured in calendar year 2008 or  
10       2009, and consumes at least 23 percent but no  
11       more than 24.9 percent less kilowatt hours per  
12       year than the 2001 energy conservation stand-  
13       ards,

14          “(C) \$100 in the case of a refrigerator  
15       which is manufactured in calendar year 2008,  
16       2009, or 2010, and consumes at least 25 per-  
17       cent but not more than 29.9 percent less kilo-  
18       watt hours per year than the 2001 energy con-  
19       servation standards, and

20          “(D) \$200 in the case of a refrigerator  
21       manufactured in calendar year 2008, 2009, or  
22       2010 and which consumes at least 30 percent  
23       less energy than the 2001 energy conservation  
24       standards.”.

25       (b) ELIGIBLE PRODUCTION.—

1           (1) SIMILAR TREATMENT FOR ALL APPLI-  
2           ANCES.—Subsection (c) of section 45M is amend-  
3           ed—

4                   (A) by striking paragraph (2),

5                   (B) by striking “(1) IN GENERAL” and all  
6           that follows through “the eligible” and inserting  
7           “The eligible”,

8                   (C) by moving the text of such subsection  
9           in line with the subsection heading, and

10                  (D) by redesignating subparagraphs (A)  
11           and (B) as paragraphs (1) and (2), respectively,  
12           and by moving such paragraphs 2 ems to the  
13           left.

14           (2) MODIFICATION OF BASE PERIOD.—Para-  
15           graph (2) of section 45M(c), as amended by para-  
16           graph (1), is amended by striking “3-calendar year”  
17           and inserting “2-calendar year”.

18           (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—  
19           Subsection (d) of section 45M (defining types of energy  
20           efficient appliances) is amended to read as follows:

21           “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
22           For purposes of this section, the types of energy efficient  
23           appliances are—

24                   “(1) dishwashers described in subsection (b)(1),

1 “(2) clothes washers described in subsection  
2 (b)(2), and

3 “(3) refrigerators described in subsection  
4 (b)(3).”.

5 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

6 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-  
7 tion 45M(e) is amended to read as follows:

8 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

9 The aggregate amount of credit allowed under sub-  
10 section (a) with respect to a taxpayer for any tax-  
11 able year shall not exceed \$75,000,000 reduced by  
12 the amount of the credit allowed under subsection  
13 (a) to the taxpayer (or any predecessor) for all prior  
14 taxable years beginning after December 31, 2007.”.

15 (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
16 AND CLOTHES WASHERS.—Paragraph (2) of section  
17 45M(e) is amended to read as follows:

18 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
19 ERATORS AND CLOTHES WASHERS.—Refrigerators  
20 described in subsection (b)(3)(D) and clothes wash-  
21 ers described in subsection (b)(2)(D) shall not be  
22 taken into account under paragraph (1).”.

23 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           45M(f) (defining qualified energy efficient appliance)  
3           is amended to read as follows:

4           “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
5           ANCE.—The term ‘qualified energy efficient appli-  
6           ance’ means—

7                   “(A) any dishwasher described in sub-  
8                   section (b)(1),

9                   “(B) any clothes washer described in sub-  
10                  section (b)(2), and

11                  “(C) any refrigerator described in sub-  
12                  section (b)(3).”.

13           (2) CLOTHES WASHER.—Section 45M(f)(3) is  
14           amended by inserting “commercial” before “residen-  
15           tial” the second place it appears.

16           (3) TOP-LOADING CLOTHES WASHER.—Sub-  
17           section (f) of section 45M is amended by redesign-  
18           nating paragraphs (4), (5), (6), and (7) as para-  
19           graphs (5), (6), (7), and (8), respectively, and by in-  
20           serting after paragraph (3) the following new para-  
21           graph:

22                   “(4) TOP-LOADING CLOTHES WASHER.—The  
23                   term ‘top-loading clothes washer’ means a clothes  
24                   washer which has the clothes container compartment



1 access located on the top of the machine and which  
2 operates on a vertical axis.”.

3 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-  
4 tion 45M(f)(6), as redesignated by paragraph (3), is  
5 amended to read as follows:

6 “(6) MODIFIED ENERGY FACTOR.—The term  
7 ‘modified energy factor’ means the modified energy  
8 factor established by the Department of Energy for  
9 compliance with the Federal energy conservation  
10 standard.”.

11 (5) GALLONS PER CYCLE; WATER CONSUMP-  
12 TION FACTOR.—Section 45M(f), as amended by  
13 paragraph (3), is amended by adding at the end the  
14 following:

15 “(9) GALLONS PER CYCLE.—The term ‘gallons  
16 per cycle’ means, with respect to a dishwasher, the  
17 amount of water, expressed in gallons, required to  
18 complete a normal cycle of a dishwasher.

19 “(10) WATER CONSUMPTION FACTOR.—The  
20 term ‘water consumption factor’ means, with respect  
21 to a clothes washer, the quotient of the total weight-  
22 ed per-cycle water consumption divided by the cubic  
23 foot (or liter) capacity of the clothes washer.”.

1 (f) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to appliances produced after De-  
 3 cember 31, 2007.

4 **SEC. 575. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
 5 **CIATION OF SMART METERS AND SMART**  
 6 **GRID SYSTEMS.**

7 (a) IN GENERAL.—Section 168(e)(3)(D) is amended  
 8 by striking “and” at the end of clause (i), by striking the  
 9 period at the end of clause (ii) and inserting a comma,  
 10 and by inserting after clause (ii) the following new clauses:

11 “(iii) any qualified smart electric  
 12 meter, and

13 “(iv) any qualified smart electric grid  
 14 system.”.

15 (b) DEFINITIONS.—Section 168(i) is amended by in-  
 16 serting at the end the following new paragraph:

17 “(18) QUALIFIED SMART ELECTRIC METERS.—

18 “(A) IN GENERAL.—The term ‘qualified  
 19 smart electric meter’ means any smart electric  
 20 meter which is placed in service by a taxpayer  
 21 who is a supplier of electric energy or a pro-  
 22 vider of electric energy services.

23 “(B) SMART ELECTRIC METER.—For pur-  
 24 poses of subparagraph (A), the term ‘smart  
 25 electric meter’ means any time-based meter and

1 related communication equipment which is ca-  
2 pable of being used by the taxpayer as part of  
3 a system that—

4 “(i) measures and records electricity  
5 usage data on a time-differentiated basis  
6 in at least 24 separate time segments per  
7 day,

8 “(ii) provides for the exchange of in-  
9 formation between supplier or provider and  
10 the customer’s electric meter in support of  
11 time-based rates or other forms of demand  
12 response,

13 “(iii) provides data to such supplier or  
14 provider so that the supplier or provider  
15 can provide energy usage information to  
16 customers electronically, and

17 “(iv) provides net metering.

18 “(19) QUALIFIED SMART ELECTRIC GRID SYS-  
19 TEMS.—

20 “(A) IN GENERAL.—The term ‘qualified  
21 smart electric grid system’ means any smart  
22 grid property used as part of a system for elec-  
23 tric distribution grid communications, moni-  
24 toring, and management placed in service by a

1 taxpayer who is a supplier of electric energy or  
2 a provider of electric energy services.

3 “(B) SMART GRID PROPERTY.—For the  
4 purposes of subparagraph (A), the term ‘smart  
5 grid property’ means electronics and related  
6 equipment that is capable of—

7 “(i) sensing, collecting, and moni-  
8 toring data of or from all portions of a  
9 utility’s electric distribution grid,

10 “(ii) providing real-time, two-way  
11 communications to monitor or manage  
12 such grid, and

13 “(iii) providing real time analysis of  
14 and event prediction based upon collected  
15 data that can be used to improve electric  
16 distribution system reliability, quality, and  
17 performance.”.

18 (c) CONTINUED APPLICATION OF 150 PERCENT DE-  
19 CLINING BALANCE METHOD.—Paragraph (2) of section  
20 168(b) is amended by striking “or” at the end of subpara-  
21 graph (B), by redesignating subparagraph (C) as subpara-  
22 graph (D), and by inserting after subparagraph (B) the  
23 following new subparagraph:

24 “(C) any property (other than property de-  
25 scribed in paragraph (3)) which is a qualified

1 smart electric meter or qualified smart electric  
2 grid system, or”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act.

6 **SEC. 576. QUALIFIED GREEN BUILDING AND SUSTAINABLE**  
7 **DESIGN PROJECTS.**

8 (a) IN GENERAL.—Paragraph (8) of section 142(l)  
9 is amended by striking “September 30, 2009” and insert-  
10 ing “September 30, 2012”.

11 (b) TREATMENT OF CURRENT REFUNDING  
12 BONDS.—Paragraph (9) of section 142(l) is amended by  
13 striking “October 1, 2009” and inserting “October 1,  
14 2012”.

15 (c) ACCOUNTABILITY.—The second sentence of sec-  
16 tion 701(d) of the American Jobs Creation Act of 2004  
17 is amended by striking “issuance,” and inserting  
18 “issuance of the last issue with respect to such project,”.

19 **Subpart D—Geothermal Incentives**

20 **SEC. 581. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP**  
21 **SYSTEMS.**

22 (a) IN GENERAL.—Subparagraph (A) of section  
23 48(a)(3) of the Internal Revenue Code of 1986 is amended  
24 by striking “or” at the end of clause (iii), by inserting

1 “or” at the end of clause (iv), and by adding at the end  
2 the following new clause:

3 “(v) equipment which uses the ground  
4 or ground water as a thermal energy  
5 source to heat a structure or as a thermal  
6 energy sink to cool a structure,”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to property placed in service after  
9 the date of the enactment of this Act.

10 **SEC. 582. 3-YEAR ACCELERATED DEPRECIATION PERIOD**  
11 **FOR GEOTHERMAL HEAT PUMP SYSTEMS.**

12 (a) IN GENERAL.—Subparagraph (A) of section  
13 168(e)(3) of the Internal Revenue Code of 1986 is amend-  
14 ed by striking “and” at the end of clause (ii), by striking  
15 the period at the end of clause (iii) and inserting “, and”,  
16 and by adding at the end the following new clause:

17 “(iv) any property which is described  
18 in clause (v) of section 48(a)(3)(A).”.

19 (b) CONFORMING AMENDMENT.—Subclause (I) of  
20 section 168(e)(3)(B)(vi) of such Code is amended by in-  
21 serting “clause (i), (ii), (iii), or (iv) of” before “subpara-  
22 graph (A)”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to property placed in service after  
25 the date of the enactment of this Act.

1                   **TITLE VI—INCREASED**  
2                   **DOMESTIC PRODUCTION**  
3                   **Subtitle A—Outer Continental**  
4                   **Shelf**

5   **SEC. 601. PROHIBITION ON LEASING.**

6           (a) PROHIBITION.—The Outer Continental Shelf  
7 Lands Act (43 U.S.C. 1331 et seq.) notwithstanding, the  
8 Secretary shall not take nor authorize any action related  
9 to oil and gas preleasing or leasing of any area of the  
10 Outer Continental Shelf that was not available for oil and  
11 gas leasing as of July 1, 2008, unless that action is ex-  
12 pressly authorized by this subtitle or a statute enacted by  
13 Congress after the date of enactment of this Act.

14          (b) TREATMENT OF AREAS IN GULF OF MEXICO.—  
15 For purposes of this subtitle, such action with respect to  
16 an area referred to in section 104(a) of the Gulf of Mexico  
17 Energy Security Act of 2006 (title I of division C of Public  
18 Law 109–432; 42 U.S.C. 1331 note) taken or authorized  
19 after the period referred to in that section shall be treated  
20 as authorized by this subtitle, and such leasing of such  
21 area shall be treated as authorized under section 602(a).

22   **SEC. 602. OPENING OF CERTAIN AREAS TO OIL AND GAS**  
23                   **LEASING.**

24          (a) LEASING AUTHORIZED.—The Secretary may  
25 offer for oil and gas leasing, preleasing, or other related

1 activities, in accordance with this section and the Outer  
2 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and  
3 subject to subsection (b) of this section, section 603 of  
4 this Act, and section 307 of the Coastal Zone Management  
5 Act of 1972 (16 U.S.C. 1456), any area—

6 (1) that is in any Outer Continental Shelf Plan-  
7 ning Area in the Atlantic Ocean or Pacific Ocean  
8 that is located farther than 50 miles from the coast-  
9 line; and

10 (2) that was not otherwise available for oil and  
11 gas leasing, preleasing, and other related activities  
12 as of July 1, 2008.

13 (b) INCLUSION IN LEASING PROGRAM REQUIRED.—  
14 An area may be offered for lease under this section only  
15 if it has been included in an Outer Continental Shelf leas-  
16 ing program approved by the Secretary in accordance with  
17 section 18 of the Outer Continental Shelf Lands Act (43  
18 U.S.C. 1344).

19 (c) REQUIREMENT TO CONDUCT LEASE SALES.—As  
20 soon as practicable, consistent with subsection (b) and sec-  
21 tion 603(a), but not later than 3 years after the date of  
22 enactment of this Act, and as appropriate thereafter, the  
23 Secretary shall conduct oil and gas lease sales under the  
24 Outer Continental Shelf lands Act (43 U.S.C. 1331 et



1 seq.) for areas that are made available for leasing by this  
2 section.

3 **SEC. 603. COASTAL STATE ROLES AND RESPONSIBILITIES.**

4 (a) STATE APPROVAL OF CERTAIN LEASING RE-  
5 QUIRED.—The Secretary may not conduct any oil and gas  
6 leasing or preleasing activity in any area made available  
7 for oil and gas leasing by section 602(a) that is located  
8 within 100 miles from the coastline and within the sea-  
9 ward lateral boundaries of an adjacent State, unless the  
10 adjacent State has enacted a law approving of the issuance  
11 of such leasing by the Secretary.

12 (b) CONSULTATION WITH ADJACENT AND NEIGH-  
13 BORING STATES.—

14 (1) IN GENERAL.—In addition to the consulta-  
15 tion provided for under section 19 of the Outer Con-  
16 tinental Shelf Lands Act (43 U.S.C. 1345), the Gov-  
17 ernor of a State that has a coastline within 100  
18 miles of an area of the Outer Continental Shelf  
19 being considered for oil and gas leasing and made  
20 available for such leasing by section 602(a) may sub-  
21 mit recommendations to the Secretary with respect  
22 to—

23 (A) the size, timing, or location of a pro-  
24 posed lease sale; or

1 (B) a proposed development and produc-  
2 tion plan.

3 (2) REQUIREMENTS.—Subsections (b), (c), and  
4 (d) of section 19 of the Outer Continental Shelf  
5 Lands Act (43 U.S.C. 1345) shall apply to the rec-  
6 ommendations provided for in paragraph (1).

7 **SEC. 604. PROTECTION OF THE ENVIRONMENT AND CON-**  
8 **SERVATION OF THE NATURAL RESOURCES**  
9 **OF THE OUTER CONTINENTAL SHELF.**

10 The Secretary—

11 (1) shall ensure that any activity under this  
12 subtitle is carried out in a manner that provides for  
13 the protection of the coastal environment, marine  
14 environment, and human environment of State  
15 coastal zones and the Outer Continental Shelf; and

16 (2) shall review all Federal regulations that are  
17 otherwise applicable to activities authorized by this  
18 subtitle to ensure environmentally sound oil and gas  
19 operations on the Outer Continental Shelf.

20 **SEC. 605. LIMITATIONS.**

21 (a) COMPLIANCE WITH MEMORANDUM.—Any oil and  
22 gas leasing of areas of the Outer Continental Shelf shall  
23 be conducted in accordance with the document entitled  
24 “Memorandum of Agreement between the Department of  
25 Defense and the Department of the Interior on Mutual

1 Concerns On The Outer Continental Shelf” and dated  
2 July 2, 1983, and such revisions thereto as may be agreed  
3 to by the Secretary of Defense and the Secretary of the  
4 Interior; except that no such revisions may be made prior  
5 to January 21, 2009.

6 (b) NATIONAL SECURITY.—Notwithstanding sub-  
7 section (a), the United States reserves the right to des-  
8 ignate by and through the Secretary of Defense, with the  
9 approval of the President, national defense areas on the  
10 Outer Continental Shelf pursuant to section 12(d) of the  
11 Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

12 **SEC. 606. PROHIBITION ON LEASING IN CERTAIN FEDERAL**  
13 **PROTECTED AREAS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-  
15 sion of this or any other Federal law, no lease or other  
16 authorization may be issued by the Federal Government  
17 that authorizes exploration, development, or production of  
18 oil or natural gas in—

19 (1) any marine national monument or national  
20 marine sanctuary; or

21 (2) the fishing grounds known as Georges Bank  
22 in the waters of the United States, which is one of  
23 the largest and historically important fishing  
24 grounds of the United States.

1       (b) IDENTIFICATION OF COORDINATES OF GEORGES  
2 BANK.—The Secretary of Commerce, after publication of  
3 public notice and an opportunity for public comment, shall  
4 identify the specific coordinates that delineate Georges  
5 Bank in the waters of the United States for purposes of  
6 subsection (a).

7 **SEC. 607. NO EFFECT ON APPLICABLE LAW.**

8       Except as otherwise specifically provided in this sub-  
9 title, nothing in this subtitle waives or modifies any appli-  
10 cable environmental or other law.

11 **SEC. 608. BUY AMERICAN REQUIREMENTS.**

12       (a) IN GENERAL.—It is the intent of Congress that  
13 this Act, among other things, result in a healthy and grow-  
14 ing American industrial, manufacturing, transportation,  
15 and service sector employing the vast talents of America’s  
16 workforce to assist in the development of energy from do-  
17 mestic sources. Moreover, the Congress intends to monitor  
18 the deployment of personnel and material onshore and off-  
19 shore to encourage the development of American tech-  
20 nology and manufacturing to enable United States work-  
21 ers to benefit from this Act by good jobs and careers, as  
22 well as the establishment of important industrial facilities  
23 to support expanded access to American resources.

24       (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—  
25 Section 30(a) of the Outer Continental Shelf Lands Act

1 (43 U.S.C. 1356(a)) is amended in the matter preceding  
2 paragraph (1) by striking “regulations which” and insert-  
3 ing “regulations that shall be supplemental and com-  
4 plimentary with and under no circumstances a substi-  
5 tution for the provisions of the Constitution and laws of  
6 the United States extended to the subsoil and seabed of  
7 the outer Continental Shelf pursuant to section 4 of this  
8 Act, except insofar as such laws would otherwise apply to  
9 individuals who have extraordinary ability in the sciences,  
10 arts, education, or business, which has been demonstrated  
11 by sustained national or international acclaim, and that”.

12 **SEC. 609. SMALL, WOMAN-OWNED, AND MINORITY-OWNED**  
13 **BUSINESSES.**

14 Section 8 of the Outer Continental Shelf Lands Act  
15 (43 U.S.C. 1337) is amended by adding at the end the  
16 following:

17 “(q) OPPORTUNITIES FOR LEASING.—The Secretary  
18 shall establish goals to ensure equal opportunity to bid on  
19 offshore leases for qualified small, women-owned, and mi-  
20 nority-owned exploration and production companies and  
21 may implement, where appropriate, outreach programs for  
22 qualified historically underutilized exploration and produc-  
23 tion companies to participate in the bidding process for  
24 offshore leases.”.

1 **SEC. 610. OCS JOINT PERMITTING OFFICES.**

2 (a) ESTABLISHMENT.—The Secretary of the Interior  
3 (referred to in this section as the “Secretary”) shall estab-  
4 lish Federal OCS Joint Regional Permitting Offices (re-  
5 ferred to in this section as the “Regional Permitting Of-  
6 fices”) in accordance with this section.

7 (b) MEMORANDUM OF UNDERSTANDING.—Not later  
8 than 90 days after the date of enactment of this Act, the  
9 Secretary shall enter into a memorandum of under-  
10 standing for purposes of this section with—

11 (1) the Secretary of Commerce;

12 (2) the Administrator of the Environmental  
13 Protection Agency; and

14 (3) the Chief of Engineers.

15 (c) DESIGNATION OF QUALIFIED STAFF.—

16 (1) IN GENERAL.—Not later than 30 days after  
17 the date of the signing of the memorandum of un-  
18 derstanding under subsection (b), all Federal signa-  
19 tory parties shall assign to each of the Regional Per-  
20 mitting Offices identified in subsection (d) a suffi-  
21 cient number of employees with expertise to address  
22 the full spectrum of agency regulatory issues relat-  
23 ing to the Regional Permitting Office in which the  
24 employee is employed, including, as applicable, par-  
25 ticular expertise in—

1 (A) the consultations and the preparation  
2 of biological opinions under section 7 of the En-  
3 dangered Species Act of 1973 (16 U.S.C.1536);

4 (B) permits under section 404 of Federal  
5 Water Pollution Control Act (33 U.S.C. 1344);

6 (C) regulatory matters under the Clean Air  
7 Act (42 U.S.C. 7401 et seq.);

8 (D) the consultations and preparation of  
9 documents under the Marine Mammal Protec-  
10 tion Act of 1972 (16 U.S.C. 1361 et seq.); and

11 (E) the preparation of analyses under the  
12 National Environmental Policy Act of 1969 (42  
13 U.S.C. 4321 et seq.).

14 (2) DUTIES.—Each employee assigned under  
15 paragraph (1) shall—

16 (A) not later than 90 days after the date  
17 of assignment, report to the Minerals Manage-  
18 ment Service Regional Director in the Regional  
19 Permitting Office to which the employee is as-  
20 signed;

21 (B) be responsible for all issues relating to  
22 the jurisdiction of the home office or agency of  
23 the employee; and

1           (C) participate as part of the team of per-  
2           sonnel working on proposed energy projects,  
3           planning, and environmental analyses.

4           (d) REGIONAL PERMITTING OFFICES.—The fol-  
5           lowing Minerals Management Service Regional Head-  
6           quarters shall serve as the Regional Permitting Offices:

7           (1) Anchorage, Alaska.

8           (2) New Orleans, Louisiana.

9           (3) MMS Pacific Regional Headquarters.

10          (4) MMS Atlantic Regional Headquarters.

11          (e) REPORTS.—Not later than 3 years after the date  
12          of enactment of this Act, the Secretary shall submit to  
13          Congress a report that describes the results of the Re-  
14          gional Permitting Offices.

15          (f) TRANSFER OF FUND.—For the purposes of co-  
16          ordination and processing of oil and gas use authorization  
17          on the Federal Outer Continental Shelf under the admin-  
18          istration of the Regional Permitting Offices identified in  
19          subsection (d), the Secretary may authorize the expendi-  
20          ture or transfer of such funds as are necessary to—

21               (1) the United States Fish and Wildlife Service;

22               (2) the Bureau of Indian Affairs;

23               (3) the Environmental Protection Agency;

24               (4) the National Oceanic and Atmospheric Ad-

25          ministration; and



1 (5) the Corps of Engineers.

2 **SEC. 611. DEFINITIONS.**

3 In this subtitle:

4 (1) **ADJACENT STATE.**—The term “adjacent  
5 State” means, with respect to any program, plan,  
6 lease sale, leased tract, or other activity, proposed,  
7 conducted, or approved in accordance with the Outer  
8 Continental Shelf Lands Act (43 U.S.C. 1331 et  
9 seq.), the State, the laws of which are declared pur-  
10 suant to section 4(a)(2) of the Outer Continental  
11 Shelf Lands Act (43 U.S.C. 1333(a)(2)) to be the  
12 law of the United States for the portion of the Outer  
13 Continental Shelf on which the program, plan, lease  
14 sale, leased tract, or activity is, or is proposed to be,  
15 conducted.

16 (2) **COASTAL ENVIRONMENT.**—The term  
17 “coastal environment” has the meaning given that  
18 term in the Outer Continental Shelf Lands Act (43  
19 U.S.C. 1331 et seq.).

20 (3) **COASTAL ZONE.**—The term “coastal zone”  
21 has the meaning given that term in the Outer Conti-  
22 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

23 (4) **COASTLINE.**—The term “coastline” has the  
24 meaning given the term “coast line” under section  
25 2 of the Submerged Lands Act (43 U.S.C. 1301).

1           (5) HUMAN ENVIRONMENT.—The term “human  
2       environment” has the meaning given that term in  
3       the Outer Continental Shelf Lands Act (43 U.S.C.  
4       1331 et seq.).

5           (6) MARINE ENVIRONMENT.—The term “ma-  
6       rine environment” has the meaning given that term  
7       in the Outer Continental Shelf Lands Act (43  
8       U.S.C. 1331 et seq.).

9           (7) OUTER CONTINENTAL SHELF.—The term  
10      “Outer Continental Shelf” has the meaning given  
11      the term “outer Continental Shelf” under section 2  
12      of the Outer Continental Shelf Lands Act (43  
13      U.S.C. 1331).

14          (8) SEAWARD LATERAL BOUNDARY.—The term  
15      “seaward lateral boundary” means a boundary  
16      drawn by the Minerals Management Service in the  
17      Federal Register notice of January 3, 2006 (vol 71,  
18      no. 1).

19          (9) SECRETARY.—The term “Secretary” means  
20      the Secretary of the Interior.

## 21       **Subtitle B—Drill Responsibly in** 22       **Leased Lands**

### 23   **SEC. 621. ISSUANCE OF NEW LEASES.**

24          (a) IN GENERAL.—After the date of the issuance of  
25      regulations under subsection (b), the Secretary of the In-

1 terior shall not issue to a person any new lease that au-  
2 thorizes the exploration for or production of oil or natural  
3 gas, under section 17 of the Mineral Leasing Act (33  
4 U.S.C. 226), the Mineral Leasing Act for Acquired Lands  
5 Act (30 U.S.C. 351 et seq.), the Outer Continental Shelf  
6 Lands Act (43 U.S.C. 1331 et seq.), or any other law au-  
7 thorizing the issuance of oil and gas leases on Federal  
8 lands or submerged lands, unless—

9           (1) the person certifies for each existing lease  
10       under such Acts for the production of oil or gas with  
11       respect to which the person is a lessee, that the per-  
12       son is diligently developing the Federal lands that  
13       are subject to the lease in order to produce oil or  
14       natural gas or is producing oil or natural gas from  
15       such land; or

16           (2) the person has relinquished all ownership  
17       interest in all Federal oil and gas leases under which  
18       oil and gas is not being diligently developed.

19       (b) DILIGENT DEVELOPMENT.—The Secretary shall  
20       issue regulations within 180 days after the date of enact-  
21       ment of this Act that establish what constitutes “diligently  
22       developing” for purposes of this Act.

23       (c) FAILURE TO COMPLY WITH REQUIREMENTS.—  
24       Any person who fails to comply with the requirements of  
25       this section or any regulation or order issued to implement

1 this section shall be liable for a civil penalty under section  
2 109 of the Federal Oil and Gas Royalty Management Act  
3 of 1982 (30 U.S.C. 1719).

4 (d) LESSEE DEFINED.—In this section the term “les-  
5 see”—

6 (1) includes any person or other entity that  
7 controls, is controlled by, or is in or under common  
8 control with, a lessee; and

9 (2) does not include any person who does not  
10 hold more than a minority ownership interest in a  
11 lease under an Act referred to in subsection (a) au-  
12 thorizing the exploration for or production of oil or  
13 natural gas.

14 **SEC. 622. FAIR RETURN ON PRODUCTION OF FEDERAL OIL**  
15 **AND GAS RESOURCES.**

16 (a) ROYALTY PAYMENTS.—The Secretary of the In-  
17 terior shall take all steps necessary to ensure that lessees  
18 under leases for exploration, development, and production  
19 of oil and natural gas on Federal lands, including leases  
20 under the Mineral Leasing Act (30 U.S.C. 181 et seq.),  
21 the Mineral Leasing Act for Acquired Lands (30 U.S.C.  
22 351 et seq.), the Outer Continental Shelf Lands Act (30  
23 U.S.C. 1331 et seq.), and all other mineral leasing laws,  
24 are making prompt, transparent, and accurate royalty  
25 payments under such leases.

1 (b) RECOMMENDATIONS FOR LEGISLATIVE AC-  
 2 TION.—In order to facilitate implementation of subsection  
 3 (a), the Secretary of the Interior shall, within 180 days  
 4 after the date of the enactment of this Act and in con-  
 5 sultation with the affected States, prepare and transmit  
 6 to Congress recommendations for legislative action to im-  
 7 prove the accurate collection of Federal oil and gas royal-  
 8 ties.

## 9 **Subtitle C—Coal Innovation Direct** 10 **Loan Program**

### 11 **SEC. 631. COAL INNOVATION DIRECT LOAN PROGRAM.**

12 (a) IN GENERAL.—Title XXXI of the Energy Policy  
 13 Act of 1992 (42 U.S.C. 13571 et seq.) is amended by add-  
 14 ing at the end the following:

#### 15 **“SEC. 3105. COAL INNOVATION DIRECT LOAN PROGRAM.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) CARBON CAPTURE.—The term ‘carbon  
 18 capture’ means the capture, separation, and com-  
 19 pression of carbon dioxide that would otherwise be  
 20 released to the atmosphere at a facility in the pro-  
 21 duction of end products of a project prior to trans-  
 22 portation of the carbon dioxide to a long-term stor-  
 23 age site.

24 “(2) COAL-TO-LIQUID PRODUCT.—The term  
 25 ‘coal-to-liquid product’ means a liquid fuel resulting

1 from the conversion of a feedstock, as described in  
2 this section.

3 “(3) COMBUSTIBLE END PRODUCT.—The term  
4 ‘combustible end product’ means any product of a  
5 facility intended to be used as a combustible fuel.

6 “(4) CONVENTIONAL BASELINE EMISSIONS.—  
7 The term ‘conventional baseline emissions’ means—

8 “(A) the lifecycle greenhouse gas emissions  
9 of a facility that produces combustible end  
10 products, using petroleum as a feedstock, that  
11 are equivalent to combustible end products pro-  
12 duced by a facility of comparable size through  
13 an eligible project;

14 “(B) in the case of noncombustible prod-  
15 ucts produced through an eligible project, the  
16 average lifecycle greenhouse gas emissions emit-  
17 ted by projects that—

18 “(i) are of comparable size; and

19 “(ii) produce equivalent products  
20 using conventional feedstocks; and

21 “(C) in the case of synthesized gas in-  
22 tended for use as a combustible fuel in lieu of  
23 natural gas produced by an eligible project, the  
24 lifecycle greenhouse gas emissions that would  
25 result from equivalent use of natural gas.

1           “(5) ELIGIBLE PROJECT.—The term ‘eligible  
2       project’ means a project—

3           “(A) that employs gasification technology  
4       or another conversion process for feedstocks de-  
5       scribed in this section; and

6           “(B) for which—

7           “(i) the annual lifecycle greenhouse  
8       gas emissions of the project are at least 20  
9       percent lower than conventional baseline  
10      emissions;

11          “(ii) at least 75 percent of the carbon  
12      dioxide that would otherwise be released to  
13      the atmosphere at the facility in the pro-  
14      duction of end products of the project is  
15      captured for long-term storage;

16          “(iii) the individual or entity carrying  
17      out the eligible project has entered into an  
18      enforceable agreement with the Secretary  
19      to implement carbon capture at the per-  
20      centage that, by the end of the 5-year pe-  
21      riod after commencement of commercial  
22      operation of the eligible project—

23           “(I) represents the best available  
24      technology; and

1 “(II) achieves a reduction in car-  
2 bon emissions that is not less than 75  
3 percent; and

4 “(iv) in the opinion of the Secretary,  
5 sufficient commitments have been secured  
6 to achieve long-term storage of captured  
7 carbon dioxide beginning as of the date of  
8 commencement of commercial operation of  
9 the project.

10 “(6) FACILITY.—The term ‘facility’ means a fa-  
11 cility at which the conversion of feedstocks to end  
12 products takes place.

13 “(7) GASIFICATION TECHNOLOGY.—The term  
14 ‘gasification technology’ means any process that con-  
15 verts coal, petroleum residue, renewable biomass, or  
16 other material that is recovered for energy or feed-  
17 stock value into a synthesis gas composed primarily  
18 of carbon monoxide and hydrogen for direct use or  
19 subsequent chemical or physical conversion.

20 “(8) GREENHOUSE GAS.—The term ‘greenhouse  
21 gas’ means any of—

22 “(A) carbon dioxide;

23 “(B) methane;

24 “(C) nitrous oxide;

25 “(D) hydrofluorocarbons;



1 “(E) perfluorocarbons; and

2 “(F) sulfur hexafluoride.

3 “(9) LIFECYCLE GREENHOUSE GAS EMIS-  
4 SIONS.—The term ‘lifecycle greenhouse gas emis-  
5 sions’ means the aggregate quantity of greenhouse  
6 gases attributable to the production and transpor-  
7 tation of end products at a facility, including the  
8 production, extraction, cultivation, distribution, mar-  
9 keting, and transportation of feedstocks, and the  
10 subsequent distribution and use of any combustible  
11 end products, as modified by deducting, as deter-  
12 mined by the Administrator of the Environmental  
13 Protection Agency—

14 “(A) any greenhouse gases captured at the  
15 facility and sequestered;

16 “(B) the carbon content, expressed in units  
17 of carbon dioxide equivalent, of any feedstock  
18 that is renewable biomass; and

19 “(C) the carbon content, expressed in units  
20 of carbon dioxide equivalent, of any end prod-  
21 ucts that do not result in the release of carbon  
22 dioxide to the atmosphere.

23 “(10) LONG-TERM STORAGE.—The term ‘long-  
24 term storage’ means sequestration with an expected  
25 maximum rate of carbon dioxide leakage over a spec-

1       ified period of time that is consistent with the objec-  
2       tive of reducing atmospheric concentrations of car-  
3       bon dioxide, subject to a permit issued pursuant to  
4       law in effect as of the date of the sequestration.

5           “(11) RENEWABLE BIOMASS.—The term ‘re-  
6       newable biomass’ has the definition given the term  
7       in section 102 of the Renewable Fuels, Consumer  
8       Protection, and Energy Efficiency Act of 2007.

9           “(12) SEQUESTRATION.—The term ‘sequestra-  
10      tion’ means the placement of carbon dioxide in a ge-  
11      ological formation, including—

12                   “(A) an operating oil and gas field;

13                   “(B) coal bed methane recovery;

14                   “(C) a depleted oil and gas field;

15                   “(D) an unmineable coal seam;

16                   “(E) a deep saline formation; and

17                   “(F) a deep geological systems containing  
18      basalt formations.

19       “(b) FEED ASSISTANCE PROGRAM.—

20           “(1) IN GENERAL.—Subject to paragraph (3),  
21       and in accordance with section 988 of the Energy  
22       Policy Act of 2005 (42 U.S.C. 16352), not later  
23       than 1 year after the date of the enactment of this  
24       section, the Secretary shall carry out a program to  
25       provide grants for use in obtaining or carrying out

1 any services necessary for the planning, permitting,  
2 and construction of an eligible project.

3 “(2) SELECTION OF ELIGIBLE PROJECTS.—The  
4 Secretary shall select eligible projects to receive  
5 grants under this section—

6 “(A) through the conduct of a reverse auc-  
7 tion, in which eligible projects proposed to be  
8 carried out that have the greatest rate of car-  
9 bon capture and long-term storage, and the  
10 lowest lifecycle greenhouse gas emissions, are  
11 given priority;

12 “(B) that, taken together, would—

13 “(i) represent a variety of geo-  
14 graphical regions;

15 “(ii) use a variety of feedstocks and  
16 types of coal; and

17 “(iii) to the extent consistent with  
18 achieving long-term storage, represent a  
19 variety of geological formations; and

20 “(C) for which eligible projects, in the  
21 opinion of the Secretary—

22 “(i) each award recipient is financially  
23 viable without the receipt of additional  
24 Federal funding associated with the pro-  
25 posed project;

1           “(ii) each recipient will provide suffi-  
2           cient information to the Secretary for the  
3           Secretary to ensure that the qualified in-  
4           vestment is expended efficiently and effec-  
5           tively;

6           “(iii) a market exists for the products  
7           of the proposed project, as evidenced by  
8           contracts or written statements of intent  
9           from potential customers;

10          “(iv) the project team of each recipi-  
11          ent is competent in the construction and  
12          operation of the gasification technology  
13          proposed; and

14          “(v) each recipient has met such other  
15          criteria as may be established and pub-  
16          lished by the Secretary.

17          “(3) MAXIMUM AMOUNT OF GRANTS.—In car-  
18          rying out this subsection, the Secretary shall provide  
19          not more than—

20               “(A) \$20,000,000 in grant funds for any  
21               eligible project; and

22               “(B) \$200,000,000 in grant funds, in the  
23               aggregate, for all eligible projects.

24          “(c) DIRECT LOAN PROGRAM.—

1           “(1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this section, and subject to  
3           funds being made available in advance through ap-  
4           propriations Acts, the Secretary shall carry out a  
5           program to provide a total of not more than  
6           \$10,000,000,000 in loans to eligible individuals and  
7           entities (as determined by the Secretary) for use in  
8           carrying out eligible projects.

9           “(2) APPLICATION.—An applicant for a loan  
10          under this section shall comply with the terms and  
11          conditions in section 215(b)(3) of the Renewable  
12          Fuels, Consumer Protection, and Energy Efficiency  
13          Act of 2007 in the same manner in which applicants  
14          for Renewable Energy Construction grants are re-  
15          quired to comply with that section.

16          “(3) SELECTION OF ELIGIBLE PROJECTS.—The  
17          Secretary shall select eligible projects to receive  
18          loans under this section—

19                 “(A) through the conduct of a reverse auc-  
20                 tion, in which eligible projects proposed to be  
21                 carried out that have the greatest rate of car-  
22                 bon capture and long-term storage, and the  
23                 lowest lifecycle greenhouse gas emissions, are  
24                 given priority;

25                 “(B) that, taken together, would—

1 “(i) represent a variety of geographic  
2 regions;

3 “(ii) use a variety of types of feed-  
4 stocks and coal; and

5 “(iii) to the extent consistent with  
6 achieving long-term storage, represent a  
7 variety of geological formations; and

8 “(C) for which eligible projects, in the  
9 opinion of the Secretary—

10 “(i) each award recipient is financially  
11 viable without the receipt of additional  
12 Federal funding associated with the pro-  
13 posed project;

14 “(ii) each recipient will provide suffi-  
15 cient information to the Secretary for the  
16 Secretary to ensure that the qualified in-  
17 vestment is expended efficiently and effec-  
18 tively;

19 “(iii) a market exists for the products  
20 of the proposed project, as evidenced by  
21 contracts or written statements of intent  
22 from potential customers;

23 “(iv) the project team of each recipi-  
24 ent is competent in the construction and

operation of the gasification technology  
proposed; and

“(v) each recipient has met such other  
criteria as may be established and published by the Secretary.

“(4) USE OF LOAN FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds from a loan provided under this section may be used to pay up to 100 percent of the costs of capital associated with reducing lifecycle greenhouse gas emissions at the facility (including carbon dioxide capture, compression, and long-term storage, cogeneration, and gasification of biomass) carried out as part of an eligible project.

“(B) TOTAL PROJECT COST.—Funds from a loan provided under this section may not be used to pay more than 50 percent of the total cost of an eligible project.

“(5) RATES, TERMS, AND REPAYMENT OF  
LOANS.—A loan provided under this section—

“(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the

1 Treasury for obligations of comparable matu-  
2 rity;

3 “(B) shall have a term equal to the lesser  
4 of—

5 “(i) the projected life, in years, of the  
6 eligible project to be carried out using  
7 funds from the loan, as determined by the  
8 Secretary; and

9 “(ii) 25 years;

10 “(C) may be subject to a deferral in repay-  
11 ment for not more than 5 years after the date  
12 on which the eligible project carried out using  
13 funds from the loan first begins operations, as  
14 determined by the Secretary; and

15 “(D) shall be made on the condition that  
16 the Secretary shall be subrogated to the rights  
17 of the recipient of the payment as specified in  
18 the loan or related agreements, including, as  
19 appropriate, the authority (notwithstanding any  
20 other provision of law)—

21 “(i) to complete, maintain, operate,  
22 lease, or otherwise dispose of any property  
23 acquired pursuant to the guarantee or a  
24 related agreement; or



1                   “(ii) to permit the borrower, pursuant  
2                   to an agreement with the Secretary, to  
3                   continue to pursue the purposes of the  
4                   project, if the Secretary determines the  
5                   pursuit to be in the public interest.

6                   “(6) METHODOLOGY.—Not later than 18  
7                   months after the date of enactment of this section,  
8                   the Administrator of the Environmental Protection  
9                   Agency shall, by regulation, establish a methodology  
10                  for use in determining the lifecycle greenhouse gas  
11                  emissions of products produced using gasification  
12                  technology.

13                  “(d) STUDY OF MAINTAINING COAL-TO-LIQUID  
14                  PRODUCTS IN STRATEGIC PETROLEUM RESERVE.—Not  
15                  later than 1 year after the date of enactment of this sec-  
16                  tion, the Secretary and the Secretary of Defense shall—

17                       “(1) conduct a study of the feasibility and suit-  
18                       ability of maintaining coal-to-liquid products in the  
19                       Strategic Petroleum Reserve; and

20                       “(2) submit to the Committee on Energy and  
21                       Natural Resources and the Committee on Armed  
22                       Services of the Senate and the Committee on Energy  
23                       and Commerce and the Committee on Armed Serv-  
24                       ices of the House of Representatives a report de-  
25                       scribing the results of the study.

1       “(e) REPORT ON EMISSIONS OF COAL-TO-LIQUID  
2 PRODUCTS USED AS TRANSPORTATION FUELS.—

3               “(1) IN GENERAL.—In cooperation with the  
4 Secretary, the Secretary of Defense, the Adminis-  
5 trator of the Federal Aviation Administration, and  
6 the Secretary of Health and Human Services, the  
7 Administrator of the Environmental Protection  
8 Agency shall—

9               “(A) carry out a research and demonstra-  
10 tion program to evaluate the emissions of the  
11 use of coal-to-liquid fuel for transportation, in-  
12 cluding diesel and jet fuel;

13               “(B) evaluate the effect of using coal-to-  
14 liquid transportation fuel on emissions of vehi-  
15 cles, including motor vehicles and nonroad vehi-  
16 cles, and aircraft (as those terms are defined in  
17 sections 216 and 234, respectively, of the Clean  
18 Air Act (42 U.S.C. 7550, 7574)); and

19               “(C) in accordance with paragraph (4),  
20 submit to Congress a report on the effect on air  
21 and water quality, water scarcity, land use, and  
22 public health of using coal-to-liquid fuel in the  
23 transportation sector.

24               “(2) GUIDANCE AND TECHNICAL SUPPORT.—  
25 The Administrator of the Environmental Protection

1       Agency, in consultation with the Secretary, shall  
2       issue any guidance or technical support documents  
3       necessary to facilitate the effective use of coal-to-liq-  
4       uid fuel and blends under this subsection.

5               “(3) REQUIREMENTS.—The program described  
6       in paragraph (1)(A) shall take into consideration—

7               “(A) the use of neat (100 percent) coal-to-  
8       liquid fuel and blends of coal-to-liquid fuels  
9       with conventional crude oil-derived fuel for  
10      heavy-duty and light-duty diesel engines and  
11      the aviation sector;

12              “(B) the production costs associated with  
13      domestic production of those fuels and prices  
14      for consumers; and

15              “(C) the overall greenhouse gas effects of  
16      substituting coal-derived fuels for crude oil-de-  
17      rived fuels.

18              “(4) REPORTS.—The Administrator of the En-  
19      vironmental Protection Agency shall submit to the  
20      Committee on Energy and Natural Resources of the  
21      Senate and the Committee on Energy and Com-  
22      merce of the House of Representatives—

23              “(A) not later than 180 days after the date  
24      of enactment of this section, an interim report

1 on actions taken to carry out this subsection;  
 2 and

3 “(B) not later than 1 year after the date  
 4 of enactment of this section, a final report on  
 5 actions taken to carry out this subsection.

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated such sums as are nec-  
 8 essary to carry out this section.”.

9 (b) CONFORMING AMENDMENT.—The table of con-  
 10 tents of the Energy Policy Act of 1992 (42 U.S.C. prec.  
 11 13201) is amended by adding at the end of the items relat-  
 12 ing to title XXXI the following:

“Sec. 3105. Coal innovation direct loan program.”.

## 13 **Subtitle D—Nuclear Power**

### 14 **SEC. 641. NUCLEAR REGULATORY COMMISSION.**

15 (a) There are authorized to be appropriated to the  
 16 Nuclear Regulatory Commission such sums as are nec-  
 17 essary for the Commission to establish an additional 60  
 18 full-time equivalent positions to—

19 (1) expedite the processing of applications for  
 20 new nuclear plants;

21 (2) streamline the licensing process; and

22 (3) provide additional safety oversight for cur-  
 23 rent and new facilities.

24 (b) There are authorized to be appropriated to the  
 25 Nuclear Regulatory Commission for the Inspector Gen-

1 eral’s Office such sums as are necessary for the Inspector  
 2 General’s Office to establish an additional 5 full-time  
 3 equivalent positions to assist with ongoing audits and in-  
 4 vestigations.

5 **SEC. 642. NUCLEAR ENERGY WORKFORCE.**

6 Section 1101 of the Energy Policy Act of 2005 (42  
 7 U.S.C. 16411) is amended—

8 (1) in subsection (b)(1)—

9 (A) in subparagraph (A), by striking  
 10 “and” at the end;

11 (B) in subparagraph (B), by striking the  
 12 period and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(C) nuclear utility and nuclear energy  
 15 product and service industries.”;

16 (2) by redesignating subsection (d) as sub-  
 17 section (e); and

18 (3) by inserting after subsection (c) the fol-  
 19 lowing:

20 “(d) WORKFORCE TRAINING.—

21 “(1) IN GENERAL.—The Secretary of Labor, in  
 22 cooperation with the Secretary, shall promulgate  
 23 regulations to implement a program to provide  
 24 grants to enhance workforce training for any occu-  
 25 pation in the workforce of the nuclear utility and nu-

1 clear energy products and services industries for  
2 which a shortage is identified or predicted in the re-  
3 port under subsection (b)(2).

4 “(2) CONSULTATION.—In carrying out this sub-  
5 section, the Secretary of Labor shall consult with  
6 representatives of the nuclear utility and nuclear en-  
7 ergy products and services industries, including or-  
8 ganized labor organizations and multiemployer asso-  
9 ciations that jointly sponsor apprenticeship pro-  
10 grams that provide training for skills needed in  
11 those industries.

12 “(3) AUTHORIZATION OF APPROPRIATIONS.—  
13 There are authorized to be appropriated to the Sec-  
14 retary of Labor, working in coordination with the  
15 Secretary and the Secretary of Education,  
16 \$20,000,000 for each of fiscal years 2009 through  
17 2013 to carry out this subsection.”.

18 **SEC. 643. INTERAGENCY WORKING GROUP TO PROMOTE**  
19 **DOMESTIC MANUFACTURING BASE FOR NU-**  
20 **CLEAR COMPONENTS AND EQUIPMENT.**

21 (a) PURPOSES.—The purposes of this section are—

22 (1) to increase the competitiveness of the  
23 United States nuclear energy products and services  
24 industries;

1           (2) to identify the stimulus or incentives nec-  
2           essary to cause United States manufacturers of nu-  
3           clear energy products to expand manufacturing ca-  
4           pacity;

5           (3) to facilitate the export of United States nu-  
6           clear energy products and services;

7           (4) to reduce the trade deficit of the United  
8           States through the export of United States nuclear  
9           energy products and services;

10          (5) to retain and create nuclear energy manu-  
11          facturing and related service jobs in the United  
12          States;

13          (6) to encourage new manufacturing tech-  
14          nologies to address industry challenges, such spent  
15          fuel recycling;

16          (7) to integrate the objectives described in para-  
17          graphs (1) through (5), in a manner consistent with  
18          the interests of the United States, into the foreign  
19          policy of the United States; and

20          (8) to authorize funds for increasing United  
21          States capacity to manufacture nuclear energy prod-  
22          ucts and supply nuclear energy services.

23          (b) ESTABLISHMENT.—

24                (1) IN GENERAL.—There is established an  
25          interagency working group (referred to in this sec-

1       tion as the “Working Group”) that, in consultation  
2       with representative industry organizations, manufac-  
3       turers of nuclear energy products, and other stake-  
4       holder groups, shall make recommendations to co-  
5       ordinate the actions and programs of the Federal  
6       Government in order to promote increasing domestic  
7       manufacturing capacity and export of domestic nu-  
8       clear energy products and services.

9               (2) COMPOSITION.—The Working Group shall  
10      be composed of—

11               (A) the Secretary of Energy (or a des-  
12              ignee), who shall serve as Chairperson of the  
13              Working Group; and

14               (B) representatives of—

- 15                       (i) the Department of Energy;  
16                       (ii) the Department of Commerce;  
17                       (iii) the Department of Defense;  
18                       (iv) the Department of Treasury;  
19                       (v) the Department of State;  
20                       (vi) the Environmental Protection  
21                      Agency;  
22                       (vii) the United States Agency for  
23                      International Development;  
24                       (viii) the Export-Import Bank of the  
25                      United States;



- 1 (ix) the Trade and Development
- 2 Agency;
- 3 (x) the Small Business Administra-
- 4 tion;
- 5 (xi) the Office of the United States
- 6 Trade Representative; and
- 7 (xii) other Federal agencies, as deter-
- 8 mined by the President.

9 (c) DUTIES OF WORKING GROUP.—The Working  
10 Group shall—

11 (1) not later than 180 days after the date of  
12 enactment of this Act, identify the actions necessary  
13 to promote the safe development and application in  
14 foreign countries of nuclear energy products and  
15 services—

16 (A) to increase electricity generation from  
17 nuclear energy sources through development of  
18 new generation facilities;

19 (B) to improve the efficiency, safety, and  
20 reliability of existing nuclear generating facili-  
21 ties through modifications; and

22 (C) enhance the safe treatment, handling,  
23 storage, and disposal of used nuclear fuel;

24 (2) not later than 180 days after the date of  
25 enactment of this Act, identify—

1 (A) mechanisms (including tax stimuli for  
2 investment, loans and loan guarantees, and  
3 grants) necessary for United States companies  
4 to increase—

5 (i) the capacity of the companies to  
6 produce or provide nuclear energy products  
7 and services; and

8 (ii) exports of nuclear energy products  
9 and services; and

10 (B) administrative or legislative initiatives  
11 that are necessary—

12 (i) to encourage United States compa-  
13 nies to increase the manufacturing capac-  
14 ity of the companies for nuclear energy  
15 products;

16 (ii) to provide technical and financial  
17 assistance and support to small and mid-  
18 sized businesses to establish quality assur-  
19 ance programs in accordance with domestic  
20 and international nuclear quality assurance  
21 code requirements;

22 (iii) to encourage, through financial  
23 incentives, private sector capital invest-  
24 ment to expand manufacturing capacity;  
25 and

1 (iv) to provide technical assistance  
2 and financial incentives to small and mid-  
3 sized businesses to develop the workforce  
4 necessary to increase manufacturing capac-  
5 ity and meet domestic and international  
6 nuclear quality assurance code require-  
7 ments;

8 (3) not later than 270 days after the date of  
9 enactment of this Act, submit to Congress a report  
10 that describes the findings of the Working Group  
11 under paragraphs (1) and (2), including rec-  
12 ommendations for new legislative authority, as nec-  
13 essary; and

14 (4) encourage the agencies represented by mem-  
15 bership in the Working Group—

16 (A) to provide technical training and edu-  
17 cation for international development personnel  
18 and local users in other countries;

19 (B) to provide financial and technical as-  
20 sistance to nonprofit institutions that support  
21 the marketing and export efforts of domestic  
22 companies that provide nuclear energy products  
23 and services;

24 (C) to develop nuclear energy projects in  
25 foreign countries;

1           (D) to provide technical assistance and  
2           training materials to loan officers of the World  
3           Bank, international lending institutions, com-  
4           mercial and energy attaches at embassies of the  
5           United States, and other appropriate personnel  
6           in order to provide information about nuclear  
7           energy products and services to foreign govern-  
8           ments or other potential project sponsors;

9           (E) to support, through financial incen-  
10          tives, private sector efforts to commercialize  
11          and export nuclear energy products and services  
12          in accordance with the subsidy codes of the  
13          World Trade Organization; and

14          (F) to augment budgets for trade and de-  
15          velopment programs in order to support pre-  
16          feasibility or feasibility studies for projects that  
17          use nuclear energy products and services.

18       (d) PERSONNEL AND SERVICE MATTERS.—The Sec-  
19       retary and the heads of agencies represented by member-  
20       ship in the Working Group shall detail such personnel and  
21       furnish such services to the Working Group, with or with-  
22       out reimbursement, as are necessary to carry out the func-  
23       tions of the Working Group.

24       (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
25       authorized to be appropriated to the Secretary to carry

1 out this section \$20,000,000 for each of fiscal years 2009  
2 through 2013.

### 3 **Subtitle E—Carbon Sequestrations**

#### 4 **SEC. 651. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-** 5 **TION.**

6 (a) IN GENERAL.—of part IV of subchapter A of  
7 chapter 1 of the Internal Revenue Code of 1986 (relating  
8 to business related credits) is amended by adding at the  
9 end the following new section:

#### 10 **“SEC. 45R. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

11 “(a) GENERAL RULE.—For purposes of section 38,  
12 the carbon dioxide sequestration credit for any taxable  
13 year is an amount equal to \$15 per metric ton of qualified  
14 carbon dioxide which is—

15 “(1) captured by the taxpayer at a qualified fa-  
16 cility, and

17 “(2) used by the taxpayer as a tertiary  
18 injectant in a qualified enhanced oil or natural gas  
19 recovery project.

20 “(b) QUALIFIED CARBON DIOXIDE.—For purposes of  
21 this section—

22 “(1) IN GENERAL.—The term ‘qualified carbon  
23 dioxide’ means carbon dioxide captured from an in-  
24 dustrial source which—

1           “(A) would otherwise be released into the  
2           atmosphere as industrial emission of green-  
3           house gas, and

4           “(B) is measured at the source of capture  
5           and verified at the point of disposal or injec-  
6           tion.

7           “(2) RECYCLED CARBON DIOXIDE.—The term  
8           ‘qualified carbon dioxide’ includes the initial deposit  
9           of captured carbon dioxide used as a tertiary  
10          injectant. Such term does not include carbon dioxide  
11          that is recaptured, recycled, and re-injected as part  
12          of the enhanced oil and natural gas recovery process.

13          “(c) QUALIFIED FACILITY.—For purposes of this  
14          section, the term ‘qualified facility’ means any industrial  
15          facility—

16               “(1) which is owned by the taxpayer,

17               “(2) at which carbon capture equipment is  
18          placed in service, and

19               “(3) which captures not less than 500,000 met-  
20          ric tons of carbon dioxide during the taxable year.

21          “(d) SPECIAL RULES AND OTHER DEFINITIONS.—  
22          For purposes of this section—

23               “(1) ONLY CARBON DIOXIDE CAPTURED WITH-  
24          IN THE UNITED STATES TAKEN INTO ACCOUNT.—

25          The credit under this section shall apply only with

1       respect to qualified carbon dioxide the capture of  
2       which is within—

3               “(A) the United States (within the mean-  
4               ing of section 638(1)), or

5               “(B) a possession of the United States  
6               (within the meaning of section 638(2)).

7               “(2) TERTIARY INJECTANT.—The term ‘ter-  
8       tiary injectant’ has the same meaning as when used  
9       within section 193(b)(1).

10              “(3) QUALIFIED ENHANCED OIL OR NATURAL  
11       GAS RECOVERY PROJECT.—The term ‘qualified en-  
12       hanced oil or natural gas recovery project’ has the  
13       meaning given the term ‘qualified enhanced oil re-  
14       covery project’ by section 43(c)(2), by substituting  
15       ‘crude oil or natural gas’ for ‘crude oil’ in subpara-  
16       graph (A)(i) thereof.

17              “(4) CREDIT ATTRIBUTABLE TO TAXPAYER.—  
18       Any credit under this section shall be attributable to  
19       the person that captures and physically or contrac-  
20       tually ensures the use as a tertiary injectant of the  
21       qualified carbon dioxide, except to the extent pro-  
22       vided in regulations prescribed by the Secretary.

23              “(5) RECAPTURE.—The Secretary shall, by reg-  
24       ulations, provide for recapturing the benefit of any  
25       credit allowable under subsection (a) with respect to

1 any qualified carbon dioxide which ceases to be cap-  
2 tured or used as a tertiary injectant in a manner  
3 consistent with the requirements of this section.

4 “(6) INFLATION ADJUSTMENT.—In the case of  
5 any taxable year beginning in a calendar year after  
6 2009, there shall be substituted for each dollar  
7 amount contained in subsection (a) an amount equal  
8 to the product of—

9 “(A) such dollar amount, multiplied by

10 “(B) the inflation adjustment factor for  
11 such calendar year determined under section  
12 43(b)(3)(B) for such calendar year, determined  
13 by substituting ‘2008’ for ‘1990’.

14 “(e) APPLICATION OF SECTION.—The credit under  
15 this section shall apply with respect to qualified carbon  
16 dioxide before the end of the calendar year in which the  
17 Secretary, in consultation with the Administrator of the  
18 Environmental Protection Agency, certifies that  
19 75,000,000 metric tons of qualified carbon dioxide have  
20 been captured and disposed of or used as a tertiary  
21 injectant.”.

22 (b) CONFORMING AMENDMENT.—Section 38(b) of  
23 the Internal Revenue Code of 1986 (relating to general  
24 business credit), as amended by this Act, is amended by  
25 striking “plus” at the end of paragraph (36), by striking



1 the period at the end of paragraph (37) and inserting “,  
2 plus”, and by adding at the end of following new para-  
3 graph:

4 “(38) the carbon dioxide sequestration credit  
5 determined under section 45R(a).”.

6 (c) CLERICAL AMENDMENT.—The table of sections  
7 for subpart B of part IV of subchapter A of chapter 1  
8 of the Internal Revenue Code of 1986 (relating to other  
9 credits), as amended by this Act, is amended by adding  
10 at the end the following new section:

“Sec. 45R. Credit for carbon dioxide sequestration.”.

11 (d) EFFECTIVE DATE.—The amendments made by 2  
12 this section shall apply carbon dioxide captured after the  
13 date of the enactment of this Act.

## 14 **TITLE VII—OFFSETS**

### 15 **SEC. 700. REFERENCE.**

16 Except as otherwise expressly provided, whenever in  
17 this title an amendment or repeal is expressed in terms  
18 of an amendment to, or repeal of, a section or other provi-  
19 sion, the reference shall be considered to be made to a  
20 section or other provision of the Internal Revenue Code  
21 of 1986.

1     **Subtitle A—Ending Unneeded Tax**  
2                     **Breaks**

3     **SEC. 701. LIMITATION OF DEDUCTION FOR INCOME AT-**  
4                     **TRIBUTABLE TO DOMESTIC PRODUCTION OF**  
5                     **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

6             (a) DENIAL OF DEDUCTION FOR MAJOR INTE-  
7     GRATED OIL COMPANIES AND STATE-OWNED OIL COMPA-  
8     NIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRO-  
9     DUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THERE-  
10    OF.—

11            (1) IN GENERAL.—Subparagraph (B) of section  
12     199(c)(4) of the Internal Revenue Code of 1986 (re-  
13     lating to exceptions) is amended by striking “or” at  
14     the end of clause (ii), by striking the period at the  
15     end of clause (iii) and inserting “, or”, and by in-  
16     serting after clause (iii) the following new clause:

17                     “(iv) in the case of any disqualified oil  
18                     company, the production, refining, proc-  
19                     essing, transportation, or distribution of  
20                     oil, gas, or any primary product thereof.”.

21            (2) DISQUALIFIED OIL COMPANY.—Section  
22     199(c) of such Code is amended by adding at the  
23     end the following new paragraph:

24                     “(8) DISQUALIFIED OIL COMPANY.—

1                   “(B) IN GENERAL.—The term ‘disqualified  
2                   oil company’ means—

3                   “(i) any major integrated oil company  
4                   (as defined in section 167(h)(5)(B)) during  
5                   any taxable year described in section  
6                   167(h)(5)(B), or

7                   “(ii) any controlled commercial entity  
8                   (as defined in section 892(a)(2)(B)) the  
9                   commercial activities of which during the  
10                  taxable year includes the production, refin-  
11                  ing, processing, transportation, or distribu-  
12                  tion of oil, gas, or any primary product  
13                  thereof.

14                  “(C) PRIMARY PRODUCT.—The term ‘pri-  
15                  mary product’ has the same meaning as when  
16                  used in section 927(a)(2)(C), as in effect before  
17                  its repeal.”.

18                  (b) LIMITATION ON OIL RELATED QUALIFIED PRO-  
19                  DUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER  
20                  THAN MAJOR INTEGRATED OIL COMPANIES AND STATE  
21                  OWNED OIL COMPANIES.—

22                  (1) IN GENERAL.—Section 199(d) of the Inter-  
23                  nal Revenue Code of 1986 is amended by redesign-  
24                  nating paragraph (9) as paragraph (10) and by in-

1       serting after paragraph (8) the following new para-  
2       graph:

3               “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL  
4       RELATED QUALIFIED PRODUCTION ACTIVITIES IN-  
5       COME.—

6               “(A) IN GENERAL.—If a taxpayer (other  
7       than a disqualified oil company) has oil related  
8       qualified production activities income for any  
9       taxable year beginning after 2009, the amount  
10      of the deduction under subsection (a) shall be  
11      reduced by 3 percent of the least of—

12              “(i) the oil related qualified produc-  
13      tion activities income of the taxpayer for  
14      the taxable year;

15              “(ii) the qualified production activities  
16      income of the taxpayer for the taxable  
17      year; or

18              “(iii) taxable income (determined  
19      without regard to this section).

20              “(B) OIL RELATED QUALIFIED PRODUC-  
21      TION ACTIVITIES INCOME.—The term ‘oil re-  
22      lated qualified production activities income’  
23      means for any taxable year the qualified pro-  
24      duction activities income which is attributable  
25      to the production, refining, processing, trans-

1           portation, or distribution of oil, gas, or any pri-  
 2           mary product thereof during such taxable  
 3           year.”.

4           (2) CONFORMING AMENDMENT.—Section  
 5           199(d)(2) of such Code (relating to application to  
 6           individuals) is amended by striking “subsection  
 7           (a)(1)(B)” and inserting “subsections (a)(1)(B) and  
 8           (d)(9)(A)(iii)”.

9           (c) EFFECTIVE DATE.—The amendments made by  
 10          this section shall apply to taxable years beginning after  
 11          December 31, 2008.

12   **SEC. 702. 7-YEAR AMORTIZATION OF GEOLOGICAL AND**  
 13                           **GEOPHYSICAL EXPENDITURES FOR CERTAIN**  
 14                           **MAJOR INTEGRATED OIL COMPANIES.**

15          (a) IN GENERAL.—Subparagraph (A) of section  
 16          167(h)(5) (relating to special rule for major integrated oil  
 17          companies) is amended by striking “5-year” and inserting  
 18          “7-year”.

19          (b) EFFECTIVE DATE.—The amendment made by  
 20          this section shall apply to amounts paid or incurred after  
 21          the date of the enactment of this Act.

22   **SEC. 703. CLARIFICATION OF DETERMINATION OF FOREIGN**  
 23                           **OIL AND GAS EXTRACTION INCOME.**

24          (a) IN GENERAL.—Paragraph (1) of section 907(c)  
 25          is amended by redesignating subparagraph (B) as sub-

1 paragraph (C), by striking “or” at the end of subpara-  
2 graph (A), and by inserting after subparagraph (A) the  
3 following new subparagraph:

4 “(B) so much of any transportation of  
5 such minerals as occurs before the fair market  
6 value event, or”.

7 (b) FAIR MARKET VALUE EVENT.—Subsection (c) of  
8 section 907 is amended by adding at the end the following  
9 new paragraph:

10 “(6) FAIR MARKET VALUE EVENT.—For pur-  
11 poses of this section, the term ‘fair market value  
12 event’ means, with respect to any mineral, the first  
13 point in time at which such mineral—

14 “(A) has a fair market value which can be  
15 determined on the basis of a transfer, which is  
16 an arm’s length transaction, of such mineral  
17 from the taxpayer to a person who is not re-  
18 lated (within the meaning of section 482) to  
19 such taxpayer, or

20 “(B) is at a location at which the fair mar-  
21 ket value is readily ascertainable by reason of  
22 transactions among unrelated third parties with  
23 respect to the same mineral (taking into ac-  
24 count source, location, quality, and chemical  
25 composition).”.

1       (c) SPECIAL RULE FOR CERTAIN PETROLEUM  
2 TAXES.—Subsection (c) of section 907, as amended by  
3 subsection (b), is amended to by adding at the end the  
4 following new paragraph:

5           “(7) OIL AND GAS TAXES.—In the case of any  
6 tax imposed by a foreign country which is limited in  
7 its application to taxpayers engaged in oil or gas ac-  
8 tivities—

9           “(A) the term ‘oil and gas extraction taxes’  
10 shall include such tax,

11           “(B) the term ‘foreign oil and gas extrac-  
12 tion income’ shall include any taxable income  
13 which is taken into account in determining such  
14 tax (or is directly attributable to the activity to  
15 which such tax relates), and

16           “(C) the term ‘foreign oil related income’  
17 shall not include any taxable income which is  
18 treated as foreign oil and gas extraction income  
19 under subparagraph (B).”.

20       (d) CONFORMING AMENDMENTS.—

21           (1) Subparagraph (C) of section 907(c)(1), as  
22 redesignated by this section, is amended by inserting  
23 “or used by the taxpayer in the activity described in  
24 subparagraph (B)” before the period at the end.

1           (2) Subparagraph (B) of section 907(c)(2) is  
2       amended to read as follows:

3           “(B) so much of the transportation of such  
4       minerals or primary products as is not taken  
5       into account under paragraph (1)(B),”.

6       (e) EFFECTIVE DATE.—The amendments made by  
7       this section shall apply to taxable years beginning after  
8       the date of the enactment of this Act.

9       **SEC. 704. CLARIFICATION OF ELIGIBILITY FOR RENEW-**  
10           **ABLE DIESEL CREDIT.**

11       (a) COPRODUCTION WITH PETROLEUM FEED-  
12       STOCK.—

13           (1) IN GENERAL.—Paragraph (3) of section  
14       40A(f) (defining renewable diesel) is amended by  
15       adding at the end the following flush sentence:

16       “Such term does not include any fuel derived from  
17       coprocessing biomass with a feedstock which is not  
18       biomass. For purposes of this paragraph, the term  
19       ‘biomass’ has the meaning given such term by sec-  
20       tion 45K(c)(3).”.

21           (2) CONFORMING AMENDMENT.—Paragraph (3)  
22       of section 40A(f) is amended by striking “(as de-  
23       fined in section 45K(c)(3))”.

24       (b) CLARIFICATION OF ELIGIBILITY FOR ALTER-  
25       NATIVE FUEL CREDIT.—



1           (1) IN GENERAL.—Subparagraph (F) of section  
2       6426(d)(2) is amended by striking “hydrocarbons”  
3       and inserting “fuel”.

4           (2) CONFORMING AMENDMENT.—Section 6426  
5       is amended by adding at the end the following new  
6       subsection:

7       “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall  
8       be determined under subsection (d) or (e) with respect to  
9       any fuel with respect to which credit may be determined  
10      under subsection (b) or (c) or under section 40 or 40A.”.

11      (c) EFFECTIVE DATE.—

12           (1) IN GENERAL.—Except as provided in para-  
13      graph (2), the amendments made by this section  
14      shall apply to fuel produced, and sold or used, after  
15      June 30, 2007.

16           (2) CLARIFICATION OF ELIGIBILITY FOR AL-  
17      TERNATIVE FUEL CREDIT.—The amendment made  
18      by subsection (b) shall take effect as if included in  
19      section 11113 of the Safe, Accountable, Flexible, Ef-  
20      ficient Transportation Equity Act: A Legacy for  
21      Users.

1 **SEC. 705. CLARIFICATION THAT CREDITS FOR FUEL ARE**  
2 **DESIGNED TO PROVIDE AN INCENTIVE FOR**  
3 **UNITED STATES PRODUCTION.**

4 (a) BIODIESEL FUELS CREDIT.—Paragraph (5) of  
5 section 40A(d), as added by subsection (c), is amended  
6 to read as follows:

7 “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
8 TION TO THE UNITED STATES.—No credit shall be  
9 determined under this section with respect to any  
10 biodiesel unless—

11 “(A) such biodiesel is produced in the  
12 United States for use as a fuel in the United  
13 States, and

14 “(B) the taxpayer obtains a certification  
15 (in such form and manner as prescribed by the  
16 Secretary) from the producer of the biodiesel  
17 which identifies the product produced and the  
18 location of such production.

19 For purposes of this paragraph, the term ‘United  
20 States’ includes any possession of the United  
21 States.”.

22 (b) EXCISE TAX CREDIT.—Paragraph (2) of section  
23 6426(i), as added by subsection (c), is amended to read  
24 as follows:

25 “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
26 No credit shall be determined under this section

1 with respect to any biodiesel or alternative fuel un-  
2 less—

3 “(A) such biodiesel or alternative fuel is  
4 produced in the United States for use as a fuel  
5 in the United States, and

6 “(B) the taxpayer obtains a certification  
7 (in such form and manner as prescribed by the  
8 Secretary) from the producer of such biodiesel  
9 or alternative fuel which identifies the product  
10 produced and the location of such production.”.

11 (c) PROVISIONS CLARIFYING TREATMENT OF FUELS  
12 WITH NO NEXUS TO THE UNITED STATES.—

13 (1) ALCOHOL FUELS CREDIT.—Subsection (d)  
14 of section 40 is amended by adding at the end the  
15 following new paragraph:

16 “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
17 TION TO THE UNITED STATES.—No credit shall be  
18 determined under this section with respect to any al-  
19 cohol which is produced outside the United States  
20 for use as a fuel outside the United States. For pur-  
21 poses of this paragraph, the term ‘United States’ in-  
22 cludes any possession of the United States.”.

23 (2) BIODIESEL FUELS CREDIT.—Subsection (d)  
24 of section 40A is amended by adding at the end the  
25 following new paragraph:

1           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
2           TION TO THE UNITED STATES.—No credit shall be  
3           determined under this section with respect to any  
4           biodiesel which is produced outside the United  
5           States for use as a fuel outside the United States.  
6           For purposes of this paragraph, the term ‘United  
7           States’ includes any possession of the United  
8           States.”.

9           (3) EXCISE TAX CREDIT.—

10           (A) IN GENERAL.—Section 6426, as  
11           amended by this Act, is amended by adding at  
12           the end the following new subsection:

13           “(i) LIMITATION TO FUELS WITH CONNECTION TO  
14           THE UNITED STATES.—

15           “(1) ALCOHOL.—No credit shall be determined  
16           under this section with respect to any alcohol which  
17           is produced outside the United States for use as a  
18           fuel outside the United States.

19           “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
20           No credit shall be determined under this section  
21           with respect to any biodiesel or alternative fuel  
22           which is produced outside the United States for use  
23           as a fuel outside the United States.

24           For purposes of this subsection, the term ‘United States’  
25           includes any possession of the United States.”.

1 (B) CONFORMING AMENDMENT.—Sub-  
2 section (e) of section 6427 is amended by redes-  
3 ignating paragraph (5) as paragraph (6) and by  
4 inserting after paragraph (4) the following new  
5 paragraph:

6 “(5) LIMITATION TO FUELS WITH CONNECTION  
7 TO THE UNITED STATES.—No amount shall be pay-  
8 able under paragraph (1) or (2) with respect to any  
9 mixture or alternative fuel if credit is not allowed  
10 with respect to such mixture or alternative fuel by  
11 reason of section 6426(i).”.

12 (d) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2), the amendments made by this section  
15 shall apply to fuel produced, and sold or used, after  
16 the date of the enactment of this Act.

17 (2) PROVISIONS CLARIFYING TREATMENT OF  
18 FUELS WITH NO NEXUS TO THE UNITED STATES.—

19 (A) IN GENERAL.—Except as otherwise  
20 provided in this paragraph, the amendments  
21 made by subsection (c) shall take effect as if in-  
22 cluded in section 301 of the American Jobs  
23 Creation Act of 2004.

24 (B) ALTERNATIVE FUEL CREDITS.—So  
25 much of the amendments made by subsection

(c) as relate to the alternative fuel credit or the alternative fuel mixture credit shall take effect as if included in section 11113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

(C) RENEWABLE DIESEL.—So much of the amendments made by subsection (c) as relate to renewable diesel shall take effect as if included in section 1346 of the Energy Policy Act of 2005.

## **Subtitle B—Additional Revenue Provisions**

### **SEC. 711. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by inserting after section 457 the following new section:

#### **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

“(a) IN GENERAL.—Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to such compensation.

1       “(b) NONQUALIFIED ENTITY.—For purposes of this  
2 section, the term ‘nonqualified entity’ means—

3               “(1) any foreign corporation unless substan-  
4 tially all of its income is—

5                       “(A) effectively connected with the conduct  
6 of a trade or business in the United States, or

7                       “(B) subject to a comprehensive foreign in-  
8 come tax, and

9               “(2) any partnership unless substantially all of  
10 its income is allocated to persons other than—

11                       “(A) foreign persons with respect to whom  
12 such income is not subject to a comprehensive  
13 foreign income tax, and

14                       “(B) organizations which are exempt from  
15 tax under this title.

16       “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-  
17 TION.—

18               “(1) IN GENERAL.—If the amount of any com-  
19 pensation is not determinable at the time that such  
20 compensation is otherwise includible in gross income  
21 under subsection (a)—

22                       “(A) such amount shall be so includible in  
23 gross income when determinable, and

24                       “(B) the tax imposed under this chapter  
25 for the taxable year in which such compensation

1 is includible in gross income shall be increased  
2 by the sum of—

3 “(i) the amount of interest determined  
4 under paragraph (2), and

5 “(ii) an amount equal to 20 percent of  
6 the amount of such compensation.

7 “(2) INTEREST.—For purposes of paragraph  
8 (1)(B)(i), the interest determined under this para-  
9 graph for any taxable year is the amount of interest  
10 at the underpayment rate under section 6621 plus  
11 1 percentage point on the underpayments that would  
12 have occurred had the deferred compensation been  
13 includible in gross income for the taxable year in  
14 which first deferred or, if later, the first taxable year  
15 in which such deferred compensation is not subject  
16 to a substantial risk of forfeiture.

17 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—  
18 For purposes of this section—

19 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

20 “(A) IN GENERAL.—The rights of a person  
21 to compensation shall be treated as subject to  
22 a substantial risk of forfeiture only if such per-  
23 son’s rights to such compensation are condi-  
24 tioned upon the future performance of substan-  
25 tial services by any individual.



1           “(B) EXCEPTION FOR COMPENSATION  
2           BASED ON GAIN RECOGNIZED ON AN INVEST-  
3           MENT ASSET.—

4           “(i) IN GENERAL.—To the extent pro-  
5           vided in regulations prescribed by the Sec-  
6           retary, if compensation is determined solely  
7           by reference to the amount of gain recog-  
8           nized on the disposition of an investment  
9           asset, such compensation shall be treated  
10          as subject to a substantial risk of for-  
11          feiture until the date of such disposition.

12          “(ii) INVESTMENT ASSET.—For pur-  
13          poses of clause (i), the term ‘investment  
14          asset’ means any single asset (other than  
15          an investment fund or similar entity)—

16               “(I) acquired directly by an in-  
17               vestment fund or similar entity,

18               “(II) with respect to which such  
19               entity does not (nor does any person  
20               related to such entity) participate in  
21               the active management of such asset  
22               (or if such asset is an interest in an  
23               entity, in the active management of  
24               the activities of such entity), and

1                   “(III) substantially all of any  
2                   gain on the disposition of which (other  
3                   than such deferred compensation) is  
4                   allocated to investors in such entity.

5                   “(iii) COORDINATION WITH SPECIAL  
6                   RULE.—Paragraph (3)(B) shall not apply  
7                   to any compensation to which clause (i)  
8                   applies.

9                   “(2) COMPREHENSIVE FOREIGN INCOME TAX.—  
10                  The term ‘comprehensive foreign income tax’ means,  
11                  with respect to any foreign person, the income tax  
12                  of a foreign country if—

13                   “(A) such person is eligible for the benefits  
14                   of a comprehensive income tax treaty between  
15                   such foreign country and the United States, or

16                   “(B) such person demonstrates to the sat-  
17                   isfaction of the Secretary that such foreign  
18                   country has a comprehensive income tax.

19                   “(3) NONQUALIFIED DEFERRED COMPENSA-  
20                  TION PLAN.—

21                   “(A) IN GENERAL.—The term ‘non-  
22                   qualified deferred compensation plan’ has the  
23                   meaning given such term under section  
24                   409A(d), except that such term shall include  
25                   any plan that provides a right to compensation

1 based on the appreciation in value of a specified  
2 number of equity units of the service recipient.

3 “(B) EXCEPTION.—Compensation shall  
4 not be treated as deferred for purposes of this  
5 section if the service provider receives payment  
6 of such compensation not later than 12 months  
7 after the end of the taxable year of the service  
8 recipient during which the right to the payment  
9 of such compensation is no longer subject to a  
10 substantial risk of forfeiture.

11 “(4) EXCEPTION FOR CERTAIN COMPENSATION  
12 WITH RESPECT TO EFFECTIVELY CONNECTED IN-  
13 COME.—In the case a foreign corporation with in-  
14 come which is taxable under section 882, this section  
15 shall not apply to compensation which, had such  
16 compensation had been paid in cash on the date that  
17 such compensation ceased to be subject to a sub-  
18 stantial risk of forfeiture, would have been deduct-  
19 ible by such foreign corporation against such income.

20 “(5) APPLICATION OF RULES.—Rules similar to  
21 the rules of paragraphs (5) and (6) of section  
22 409A(d) shall apply.

23 “(e) REGULATIONS.—The Secretary shall prescribe  
24 such regulations as may be necessary or appropriate to  
25 carry out the purposes of this section, including regula-

1 tions disregarding a substantial risk of forfeiture in cases  
 2 where necessary to carry out the purposes of this sec-  
 3 tion.”.

4 (b) CONFORMING AMENDMENT.—Section 26(b)(2) is  
 5 amended by striking “and” at the end of subparagraph  
 6 (U), by striking the period at the end of subparagraph  
 7 (V) and inserting “, and”, and by adding at the end the  
 8 following new subparagraph:

9 “(W) section 457A(c)(1)(B) (relating to  
 10 determinability of amounts of compensation).”.

11 (c) CLERICAL AMENDMENT.—The table of sections  
 12 of subpart B of part II of subchapter E of chapter 1 is  
 13 amended by inserting after the item relating to section  
 14 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent  
 parties.”.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as otherwise pro-  
 17 vided in this subsection, the amendments made by  
 18 this section shall apply to amounts deferred which  
 19 are attributable to services performed after Decem-  
 20 ber 31, 2008.

21 (2) APPLICATION TO EXISTING DEFERRALS.—  
 22 In the case of any amount deferred to which the  
 23 amendments made by this section do not apply solely  
 24 by reason of the fact that the amount is attributable

1 to services performed before January 1, 2009, to the  
2 extent such amount is not includible in gross income  
3 in a taxable year beginning before 2018, such  
4 amounts shall be includible in gross income in the  
5 later of—

6 (A) the last taxable year beginning before  
7 2018, or

8 (B) the taxable year in which there is no  
9 substantial risk of forfeiture of the rights to  
10 such compensation (determined in the same  
11 manner as determined for purposes of section  
12 457A of the Internal Revenue Code of 1986, as  
13 added by this section).

14 (3) CHARITABLE CONTRIBUTIONS OF EXISTING  
15 DEFERRALS PERMITTED.—

16 (A) IN GENERAL.—Subsection (b) of sec-  
17 tion 170 of the Internal Revenue Code of 1986  
18 shall not apply to (and subsections (b) and (d)  
19 of such section shall be applied without regard  
20 to) so much of the taxpayer's qualified con-  
21 tributions made during the taxpayer's last tax-  
22 able year beginning before 2018 as does not ex-  
23 ceed the taxpayer's qualified inclusion amount.  
24 For purposes of subsection (b) of section 170 of  
25 such Code, the taxpayer's contribution base for

1 such last taxable year shall be reduced by the  
2 amount of the taxpayer's qualified contributions  
3 to which such subsection does not apply by rea-  
4 son the preceding sentence.

5 (B) QUALIFIED CONTRIBUTIONS.—For  
6 purposes of this paragraph, the term “qualified  
7 contributions” means the aggregate charitable  
8 contributions (as defined in section 170(c) of  
9 such Code) paid in cash by the taxpayer to or-  
10 ganizations described in section 170(b)(1)(A) of  
11 such Code (other than any organization de-  
12 scribed in section 509(a)(3) of such Code or  
13 any fund or account described in section  
14 4966(d)(2) of such Code).

15 (C) QUALIFIED INCLUSION AMOUNT.—For  
16 purposes of this paragraph, the term “qualified  
17 inclusion amount” means the amount includible  
18 in the taxpayer's gross income for the last tax-  
19 able year beginning before 2018 by reason of  
20 paragraph (2).

21 (4) ACCELERATED PAYMENTS.—No later than  
22 120 days after the date of the enactment of this Act,  
23 the Secretary shall issue guidance providing a lim-  
24 ited period of time during which a nonqualified de-  
25 ferred compensation arrangement attributable to

1 services performed on or before December 31, 2008,  
2 may, without violating the requirements of section  
3 409A(a) of the Internal Revenue Code of 1986, be  
4 amended to conform the date of distribution to the  
5 date the amounts are required to be included in in-  
6 come.

7 (5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—

8 If the taxpayer is also a service recipient and main-  
9 tains one or more nonqualified deferred compensa-  
10 tion arrangements for its service providers under  
11 which any amount is attributable to services per-  
12 formed on or before December 31, 2008, the guid-  
13 ance issued under paragraph (4) shall permit such  
14 arrangements to be amended to conform the dates of  
15 distribution under such arrangement to the date  
16 amounts are required to be included in the income  
17 of such taxpayer under this subsection.

18 (6) ACCELERATED PAYMENT NOT TREATED AS  
19 MATERIAL MODIFICATION.—Any amendment to a  
20 nonqualified deferred compensation arrangement  
21 made pursuant to paragraph (4) or (5) shall not be  
22 treated as a material modification of the arrange-  
23 ment for purposes of section 409A of the Internal  
24 Revenue Code of 1986.

1   **SEC. 712. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**  
2                   **TION OF INTEREST.**

3       Section 864(f) is amended—

4               (1) by striking “December 31, 2010” in para-  
5       graphs (5)(D) and (6) and inserting “December 31,  
6       2018”, and

7               (2) by striking paragraph (7).

8   **SEC. 713. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
9                   **TAXES.**

10       The percentage under subparagraph (C) of section  
11   401(1) of the Tax Increase Prevention and Reconciliation  
12   Act of 2005 in effect on the date of the enactment of this  
13   Act is increased by 37.75 percentage points.

○